

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 182

INTRODUCER: Senator Calatayud

SUBJECT: Tax Credits for Charitable Contributions

DATE: March 10, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Morgan	Brown	HP	Favorable
2.			FT	
3.			AP	

I. Summary:

SB 182 creates s. 402.63, F.S., the Home Away From Home Tax Credit, which provides tax credits against various Florida taxes to businesses that make monetary contributions to certain eligible charitable organizations that house families of critically ill children at little or no cost to the family while traveling so the child can receive care.

The bill specifies requirements for an eligible charitable organization, which must be a s. 501(c)(3) organization under the Internal Revenue Code, must be a Florida entity with its principal office in Florida, and must house families of critically ill children at de minimis to no cost to the family while the child receives treatment. The eligible charitable organization must expend 100 percent of any contributions received for the expansion of current structures or the construction of new facilities to comfort and support families, thereby removing the additional burden of lodging costs for those already experiencing significant medical expenses.

The bill also specifies procedures and requirements for eligible charitable organizations to apply with the Florida Department of Health (DOH), requires the organizations to conduct criminal history background screening on all volunteers and staff working directly with children in any program funded with contributions, and requires the organizations to submit annual audit reports to the DOH. The bill specifies requirements and procedures for, and limitations on, receiving, using, or transferring the tax credits, including applying with the Florida Department of Revenue (DOR).

The tax credit is capped at \$2.5 million in each state fiscal year.

For the 2025-2026 fiscal year, the bill appropriates \$208,000 in nonrecurring funds from the General Revenue Fund to the DOR for the purpose of implementing the Home Away From Home Tax Credit.

The bill provides an effective date of July 1, 2025.

II. Present Situation:

The Florida Department of Health

The Florida Department of Health (DOH) is responsible for the state's public health system, which is designed to promote, protect, and improve the health of all people in the state.¹

The Florida Department of Revenue

The Florida Department of Revenue (DOR) administers three main programs: the Child Support Program, the General Tax Administration Program, and the Property Tax Oversight Program. The DOR collects more than \$40 billion a year in taxes and fees annually and processes more than \$9 million in tax filings annually.²

The Florida Department of Business and Professional Regulation

The Department of Business and Professional Regulation (DBPR) is the agency charged with licensing and regulating businesses and professionals in the State of Florida, such as cosmetologists, veterinarians, real estate agents, and pari-mutuel wagering facilities.³

The Division of Alcoholic Beverages and Tobacco

The DBPR's Division of Alcoholic Beverages and Tobacco issues licenses or permits that are required for any business or person to manufacture, import, export, store, distribute or sell alcoholic beverages or products containing tobacco or nicotine. The Division of Alcoholic Beverages and Tobacco conducts audits to ensure the proper collection of taxes, surcharges, and fees, and conducts inspections and investigations to ensure compliance with the laws and regulations governing the sale of alcoholic beverages and products containing tobacco or nicotine pursuant to Florida Statutes.⁴

Health Care Hospitality Homes

Health care hospitality homes provide lodging at significantly reduced costs to patients and their caregivers while the patients receive life-saving medical care away from their home communities. While hotels serve guests traveling for many different reasons, health care hospitality homes provide an environment created specifically to support patients and their caregivers dealing with health care issues. By creating a welcoming and communal space for those going through similar stressful situations, a sense of community is created where patients and caregivers can support one another. Most health care hospitality homes have shared kitchens,

¹ Section 381.001, F.S.

² Florida Department of Revenue, *Quick Facts about the Florida Department of Revenue*, available at https://floridarevenue.com/opengovt/Pages/quick_facts.aspx (last visited Mar. 6, 2025).

³ Florida Department of Business & Professional Regulation, *Department Overview*, available at <https://www2.myfloridalicense.com/about-us/department-overview/> (last visited Mar. 6, 2025).

⁴ Florida Department of Business & Professional Regulation, *Department Divisions & Offices*, available at <https://www2.myfloridalicense.com/about-us/department-divisions/> (last visited Mar. 6, 2025).

common living areas, and private bedrooms and bathrooms that create a feeling of a home-away-from-home, as well as a safe place to land each day. Health care hospitality homes help alleviate the financial burden often associated with medical crises and reduce stress on both the patient and family members.⁵

State Revenue Sources

Currently, there are no statutory provisions for a tax credit program for eligible contributions made to eligible charitable organizations that house families of critically ill children at de minimis to no cost to the family while the child receives treatment.

Corporate Income Tax

The state of Florida imposes a 5.5 percent tax on the taxable income of certain corporations and financial institutions conducting business in the state.⁶ Corporate income tax is remitted to the DOR and distributed to the General Revenue Fund. Net collections of corporate income tax in state fiscal year 2023-2024 were determined to be \$6.02 billion.⁷

Credits against corporate income tax or franchise tax are applied in the order as enumerated in the following sections: 631.828,⁸ 220.191,⁹ 220.181,¹⁰ 220.183,¹¹ 220.182,¹² 220.1895,¹³ 220.195,¹⁴ 220.184,¹⁵ 220.186,¹⁶ 220.1845,¹⁷ 220.19,¹⁸ 220.185,¹⁹ 220.1875,²⁰ 220.1876,²¹

⁵ Healthcare Hospitality Network, *History of HHN*, available at <https://www.hhnetwork.org/history-of-hhn/> (last visited Mar. 6, 2025).

⁶ Sections 220.11(2), F.S. and 220.63(2), F.S.

⁷ Florida Office of Economic & Demographic Research, *Revenue Estimating Conference General Revenue Fund, Changes to the Estimate, General Revenue Fund (Aug. 14, 2024)*, available at <https://edr.state.fl.us/content/conferences/generalrevenue/grchng.pdf> (last visited Mar. 6, 2025).

⁸ Credit for assessment paid by a member of a health maintenance organization.

⁹ Capital investment tax credit.

¹⁰ Enterprise zone jobs credit.

¹¹ Community contribution tax credit.

¹² Enterprise zone property tax credit.

¹³ Rural Job Tax Credit and Urban High-Crime Area Job Tax Credit.

¹⁴ Emergency excise tax credit.

¹⁵ Hazardous waste facility tax credit.

¹⁶ Credit for Florida alternative minimum tax.

¹⁷ Contaminated site rehabilitation tax credit.

¹⁸ Child care tax credits.

¹⁹ State housing tax credit.

²⁰ Credit for contributions to eligible nonprofit scholarship-funding organizations.

²¹ Credit for contributions to the New Worlds Reading Initiative.

220.1877,²² 220.1878,²³ 220.193,²⁴ former 288.9916,²⁵ former 220.1899,²⁶ former 220.194,²⁷ 220.196,²⁸ 220.198,²⁹ 220.1915,³⁰ 220.199,³¹ 220.1991,³² and 220.1992, F.S.³³

Insurance Premium Tax

The state of Florida imposes a 1.75 percent tax on most Florida insurance premiums.³⁴ Insurance premium taxes are paid by insurance companies under ch. 624, F.S., and are remitted to the DOR. These revenues are distributed to the General Revenue Fund with additional distributions to the Insurance Regulatory Trust Fund, the Police & Firefighters Premium Tax Trust Fund, and the Emergency Management Preparedness & Assistance Trust Fund. Net collections of insurance premium tax in state fiscal year 2023-2024 were determined to be \$1.74 billion.³⁵

Severance Taxes on Oil and Gas Production

Oil and gas production severance taxes are imposed on every person who severs oil or gas in the state of Florida for sale, transport, storage, profit, or commercial use.³⁶ These taxes are remitted to the DOR and distributed to the General Revenue Fund with additional distributions to the Minerals Trust Fund and to the counties where production occurred. Net collections from the severance taxes on oil and gas in state fiscal year 2023-2024 were determined to be \$8.1 million.³⁷

Sales Taxes Paid by Direct Pay Permit Holders

Section 212.183, F.S., authorizes the DOR to establish a process for the self-accrual of sales taxes due under ch. 212, F.S. The process involves the DOR granting a direct pay permit to a taxpayer, who then pays the taxes directly to the DOR.³⁸

²² Credit for contributions to eligible charitable organizations.

²³ Credit for contributions to the Live Local Program.

²⁴ Florida renewable energy production credit.

²⁵ New market tax credit.

²⁶ Entertainment industry tax credit.

²⁷ Corporate income tax credit for spaceflight projects.

²⁸ Research and development tax credit.

²⁹ Experiential learning tax credit program.

³⁰ Credit for qualified railroad reconstruction or replacement expenditures.

³¹ Residential graywater system tax credit.

³² Credit for manufacturing of human breast milk derived human milk fortifiers.

³³ Individuals with Unique Abilities Tax Credit Program.

³⁴ Section 624.509, F.S.

³⁵ *Supra* note 7.

³⁶ Sections 211.02, F.S., and 211.025, F.S.

³⁷ *Supra* note 7.

³⁸ Section 212.183, F.S., and Rule 12A-1.0911, F.A.C. Direct pay permit holders include: dealers who annually make purchases in excess of \$10 million per year in any county; dealers who annually purchase at least \$100,000 of tangible personal property, including maintenance and repairs for their own use; dealers who purchase promotional materials whose ultimate use is unknown at purchase; eligible air carriers, vessels, railroads, and motor vehicles engaged in interstate and foreign commerce; and dealers who lease realty from a number of independent property owners.

Alcoholic Beverage Tax on Beer, Wine, and Spirits

The state of Florida imposes excise taxes on malt beverages, wines, and other beverages.³⁹ The taxes are due from manufacturers, distributors and vendors of malt beverages, and from manufacturers and distributors of wine, liquor, and other specified alcoholic beverages. Taxes are remitted to the DBPR's Division of Alcoholic Beverages and Tobacco.⁴⁰

Distributions of the excise taxes on alcoholic beverages are made to the General Revenue Fund, the Alcoholic Beverage and Tobacco Trust Fund, and Viticulture Trust Fund. Net collections from the alcoholic beverage taxes in state fiscal year 2023-24 were determined to be \$345 million.⁴¹

Background Screening

Background Screening Process

Level 1 and Level 2 Criminal History Record Checks are terms used under Florida law to convey the method of the criminal history record check and the extent of the data searched. Level 1 and Level 2 are terms that pertain only to Florida and are not used by the Federal Bureau of Investigation (FBI) or other states:⁴²

- Level 1: a state-only name-based check.
- Level 2: a state and national fingerprint-based check and consideration of disqualifying offenses, applicable to employees and volunteers designated by law as holding positions of responsibility or trust and those required to be fingerprinted pursuant to ch. 435, F.S.

Public Law (Pub. L.) 92-544 authorizes the FBI to exchange criminal history record information (CHRI) with state and local governmental agencies' officials for licensing and employment purposes. Criteria established under Pub. L. 92-544 requires state statutes to designate an authorized governmental agency to be responsible for receiving and screening the results of the CHRI to then determine an applicant's suitability for employment or licensing. For Level 2 screening, the Florida Department of Law Enforcement (FDLE) is this state's authorized governmental agency given the responsibility to perform a criminal history record check of its records and request that the FBI perform a national criminal history record check of its records for each employee for whom the request is made.⁴³

Under current law, designated eligible charitable organizations are not considered authorized governmental agencies to conduct background screenings and, therefore, are unable to request or obtain national records pursuant to s. 435.04, F.S. However, the FDLE's Volunteer and Employee Criminal History System (VECHS) allows certain non-governmental organizations to obtain national criminal history results through the FDLE.⁴⁴

³⁹ Sections 563.05, F.S., 564.06, F.S., and 565.12, F.S.

⁴⁰ Section 561.02, F.S. The Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation is responsible for supervising the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of all alcoholic beverages in the state of Florida.

⁴¹ *Supra* note 7.

⁴² Chapter 435, F.S.

⁴³ *Id.*

⁴⁴ Florida Department of Law Enforcement, *Volunteer & Employee Criminal History System*, available at <https://www.fdle.state.fl.us/background-checks> (last visited Mar. 6, 2025).

Once the FDLE receives fingerprints and payment for CHRI, with the assistance of the FBI, the FDLE will provide the organization:⁴⁵

- Either an indication that the person has no criminal history or the criminal history record that shows arrests and convictions for the state of Florida and other states, if any; and
- Notification of any warrants or domestic violence injunctions that the person may have.

III. Effect of Proposed Changes:

Section 1 creates s. 211.02535, F.S., to authorize a tax credit of 100 percent of an eligible contribution made to an eligible charitable organization beginning January 1, 2026, under the Home Away From Home Tax Credit against any tax due under s. 211.02, F.S., or s. 211.025, F.S., for oil or gas production. However, the combined credit allowed under this section and s. 211.0251, F.S., may not exceed 50 percent of the tax due on the return on which the credit is taken. If the combined credit allowed under this section and s. 211.0251, F.S., exceeds 50 percent of the tax due on the return, the credit must first be taken under s. 211.0251, F.S. Any remaining liability must be taken under this section but may not exceed 50 percent of the tax due.

For the purpose of the distribution of tax revenue under s. 211.06, F.S., the bill directs the DOR to disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received which is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund.

Section 2 creates s. 212.18345, F.S., to authorize a tax credit of 100 percent of an eligible contribution made to an eligible charitable organization beginning January 1, 2026, under the Home Away From Home Tax Credit against any tax imposed by the state and due under this chapter from a direct pay permit holder as a result of the direct pay permit held pursuant to s. 212.183, F.S.

For the purpose of the distribution of tax revenue under s. 212.20, F.S., the bill directs the DOR to disregard any tax credits allowed under this section to ensure that any reduction in tax revenue received which is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund. A dealer who claims a tax credit under this section must file his or her tax returns and pay his or her taxes by electronic means under s. 213.755, F.S.

Section 3 amends s. 220.02, F.S., to specify the order in which the credit is applied in relation to other corporate income tax credits.

Section 4 creates s. 220.18775, F.S., to authorize a tax credit of 100 percent of an eligible contribution made to an eligible charitable organization for taxable years beginning on or after January 1, 2026, under the Home Away From Home Tax Credit against any tax due for a taxable year under ch. 220, F.S., after the application of any other allowable credits by the taxpayer. An eligible contribution must be made to an eligible charitable organization on or before the date the

⁴⁵ Florida Department of Law Enforcement, *VECHS Process and Forms*, available at <https://www.fdle.state.fl.us/Background-Checks/VECHS-Process-and-Forms> (last visited Mar. 6, 2025).

taxpayer is required to file a return pursuant to s. 220.222, F.S. The credit is reduced by the difference between the amount of federal corporate income tax, taking into account the credit granted by this section, and the amount of federal corporate income tax without application of the credit granted by this section. A taxpayer who files a Florida consolidated return as a member of an affiliated group pursuant to s. 220.131(1), F.S., may be allowed the credit on a consolidated return basis, subject to limitations.

If a taxpayer applies and is approved for a credit under the Home Away From Home Tax Credit after timely requesting an extension to file under s. 220.222(2), F.S.:

- The credit does not reduce the amount of tax due for purposes of the DOR's determination as to whether the taxpayer was in compliance with the requirement to pay tentative taxes under ss. 220.222 and 220.32, F.S.
- The taxpayer's noncompliance with the requirement to pay tentative taxes will result in the revocation and rescindment of any such credit.
- The taxpayer will be assessed for any taxes, penalties, or interest due from the taxpayer's noncompliance with the requirement to pay tentative taxes.

Section 5 creates s. 402.63, F.S., to establish the Home Away From Home Tax Credit.

The bill defines the following terms:

- "Annual tax credit amount" means, for any state fiscal year, the sum of the amount of tax credits approved under s. 402.63(5)(b), F.S., including tax credits to be taken for severance taxes on oil and gas production; self-accrued sales tax liability of direct pay permit holders; corporate income tax; the alcoholic beverage tax on beer, wine, and spirits; or the insurance premium tax, which are approved for taxpayers whose taxable years begin on or after January 1 of the calendar year preceding the start of the applicable state fiscal year.
- "Division" means the Division of Alcoholic Beverages and Tobacco of the DBPR.
- "Eligible charitable organization" means an organization designated by the DOH as eligible to receive funding under the Home Away From Home Tax Credit.
- "Eligible contribution" means a monetary contribution from a taxpayer, subject to the restrictions provided under the Home Away From Home Tax Credit, to an eligible charitable organization. The taxpayer making the contribution may not designate a specific family to be assisted by the eligible charitable organization as the beneficiary of the contribution.
- "Tax credit cap amount" means the maximum annual tax credit amount that the DOR may approve for a state fiscal year.

The bill requires the DOH to designate as an eligible charitable organization an organization that meets all of the following requirements:

- Is exempt from federal income taxation under s. 501(c)(3) of the Internal Revenue Code.
- Is a Florida entity formed under ch. 605, F.S., ch. 607, F.S., or ch. 617, F.S., whose principal office is located in this state.
- At de minimis to no cost to the family, houses families of critically ill children receiving treatment.
- Provides to the DOH accurate information, including, at a minimum, a description of the services provided by the organization; the total number of individuals served through those

services during the last calendar year; basic financial information regarding the organization and services; and contact information for the organization.

- Annually submits a statement, signed under penalty of perjury by a current officer of the organization, that the organization meets all criteria to qualify as an eligible charitable organization, has fulfilled responsibilities under the Home Away From Home Tax Credit for the previous fiscal year if the organization received any funding through this credit during the previous fiscal year, and intends to fulfill its responsibilities during the upcoming fiscal year.
- Provides any documentation requested by the DOH to verify eligibility as an eligible charitable organization or compliance with the Home Away From Home Tax Credit.

The bill prohibits the designation of an organization that provides abortions, or pays for or provides coverage for abortions, as an eligible charitable organization by the DOH.

The bill requires that an eligible charitable organization that receives a contribution under the Home Away From Home Tax Credit must do all of the following:

- Apply for admittance into the Department of Law Enforcement's Volunteer and Employee Criminal History System and, if accepted, conduct background screening on all volunteers and staff working directly with children in any program funded under the Home Away From Home Tax Credit pursuant to s. 943.0542, F.S. Background screening must use level 2 screening standards pursuant to s. 435.04, F.S., and must include, but need not be limited to, a check of the Dru Sjodin National Sex Offender Public Website.
- Expend 100 percent of any contributions received under the Home Away From Home Tax Credit for the expansion of current structures or the construction of new facilities for the purpose of housing families of critically ill children receiving treatment.
- Annually submit to the DOH:
 - An audit of the eligible charitable organization conducted by an independent certified public accountant in accordance with auditing standards generally accepted in the United States, government auditing standards, and rules adopted by the Auditor General. The audit report must include a report on financial statements presented in accordance with generally accepted accounting principles. The audit report must be provided to the DOH within 180 days after completion of the eligible charitable organization's fiscal year.
 - A copy of the eligible charitable organization's most recent federal Internal Revenue Service Return of Organization Exempt from Income Tax form (Form 990).
- Notify the DOH immediately if it is in jeopardy of losing the eligible charitable organization designation under the Home Away From Home Tax Credit.
- Upon receipt of a contribution, provide the taxpayer that made the contribution with a certificate of contribution. A certificate of contribution must include the taxpayer's name and, if available, its federal employer identification number, the amount contributed, the date of contribution, and the name of the eligible charitable organization.

The bill requires the DOH to do all of the following:

- Annually redesignate eligible charitable organizations that have complied with all requirements of the Home Away From Home Tax Credit.
- Remove the designation of organizations that fail to meet all requirements of the Home Away From Home Tax Credit. An organization that has had its designation removed by the DOH may reapply for designation as an eligible charitable organization, and the DOH may

redesignate such organization if it meets the requirements of the Home Away From Home Tax Credit and demonstrates through its application that all factors leading to its removal as an eligible charitable organization have been sufficiently addressed.

- Work with each eligible charitable organization to assist in the maintenance of eligibility requirements until the completion of any construction project involving funds awarded in accordance with the Home Away From Home Tax Credit. The DOH must establish a redesignation window for which an organization may be redesignated without the recoupment of funds.
- Publish information about the tax credit and eligible charitable organizations on a DOH website. The website must, at a minimum, provide all of the following:
 - The requirements and process for becoming designated or redesignated as an eligible charitable organization.
 - A list of the eligible charitable organizations that are currently designated by the DOH and the information provided under s. 402.63(2)(a)4., F.S., regarding each eligible charitable organization.
 - The process for a taxpayer to select an eligible charitable organization as the recipient of funding through a tax credit.
- Compel the return of funds that were provided to an eligible charitable organization that fails to comply with the requirements of the Home Away From Home Tax Credit. Eligible charitable organizations subject to return of funds are ineligible to receive funding under the Home Away From Home Tax Credit for a period of 10 years after final agency action to compel the return of funds.
 - In order to encourage the completion of all construction projects, the DOH must establish a process to determine whether an eligible charitable organization has failed to fulfill its responsibilities under the Home Away From Home Tax Credit. The process must require an eligible charitable organization to provide documentation of good faith efforts made to complete construction, including, but not limited to, plans and status updates on the project.
 - An eligible charitable organization that no longer meets the eligibility requirements under the Home Away From Home Tax Credit and makes no effort in conjunction with the DOH to rectify the situation is subject to return of funds.
- Analyze the use of funding provided by the tax credit authorized under the Home Away From Home Tax Credit and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives annually, beginning October 1, 2026. The report must, at a minimum, include the total funding amount provided under the Home Away From Home Tax Credit and the amounts provided to each eligible charitable organization, describe the eligible charitable organizations that were funded, and assess the outcomes that were achieved, as well as the projects in progress, using the funding.

The bill authorizes a tax credit cap amount of \$2.5 million in each state fiscal year beginning in fiscal year 2025-2026.

The bill authorizes a taxpayer to submit an application to the DOR for a tax credit or credits to be taken against the taxpayer's liability for several state taxes: severance taxes on oil and gas production; self-accrued sales tax liability of direct pay permit holders; corporate income tax; alcoholic beverage tax on beer, wine, and spirits; and insurance premium tax. The application may be submitted beginning at 9:00 a.m., on the first day of the calendar year, which is not a

Saturday, Sunday, or legal holiday. The DOR may not approve applications for a tax credit under the Home Away From Home Tax Credit after state fiscal year 2030-2031.

The bill requires the taxpayer to specify in the application each tax for which the taxpayer requests a credit and the applicable taxable year for a credit towards corporate income or insurance premium tax, or the applicable state fiscal year for a credit towards severances taxes on oil and gas production, self-accrued sales tax liability of direct pay permit holders, or alcoholic beverage tax on beer, wine, and spirits. For purposes of corporate income tax, a taxpayer may apply for a credit to be used for a prior taxable year before the date the taxpayer is required to file a return for that year pursuant to s. 220.222, F.S.

For purposes of insurance premium tax, a taxpayer may apply for a credit to be used for a prior taxable year before the date the taxpayer is required to file a return for that prior taxable year pursuant to ss. 624.509 and 624.5092, F.S. The application must specify the eligible charitable organization to which the proposed contribution will be made. The DOR must approve tax credits on a first-come, first-served basis and must obtain the approval of the DBPR's Division of Alcoholic Beverages and Tobacco before approving a tax credit for alcoholic beverage tax on beer, wine, and spirits. Within 10 days after approving or denying an application, the DOR must provide a copy of its approval or denial letter to the eligible charitable organization specified by the taxpayer in the application.

The bill authorizes the unused amount of an approved tax credit to be carried forward for a period not to exceed 10 years if it is not fully used within the specified year because of insufficient tax liability on the part of the taxpayer. For the purpose of the corporate income tax, a credit carried forward may be used in a subsequent year after applying the other credits and unused carryovers in the order provided in s. 220.02(8), F.S.

The bill prohibits a taxpayer from conveying, transferring, or assigning an approved tax credit or a carryforward tax credit to another entity unless all of the assets of the taxpayer are conveyed, assigned, or transferred in the same transaction. However, a tax credit may be conveyed, transferred, or assigned between members of an affiliated group of corporations if the type of tax credit remains the same. A taxpayer must notify the DOR of its intent to convey, transfer, or assign a tax credit to another member within an affiliated group of corporations. The amount conveyed, transferred, or assigned is available to another member of the affiliated group of corporations upon approval by the DOR. The DOR must obtain the approval of the Division of Alcoholic Beverages and Tobacco of the DBPR before approving a conveyance, transfer, or assignment of a tax credit for the alcoholic beverage tax on beer, wine, and spirits.

The bill authorizes a taxpayer the ability to rescind all or part of an approved tax credit within any state fiscal year. The amount rescinded becomes available for that state fiscal year to another eligible taxpayer as approved by the DOR if the taxpayer receives notice from the DOR that the rescindment has been accepted by the DOR. The DOR must obtain the approval of the DBPR's Division of Alcoholic Beverages and Tobacco before accepting the rescindment of a tax credit for the alcoholic beverage tax on beer, wine, and spirits. Any amount rescinded must become available to an eligible taxpayer on a first-come, first-served basis based on tax credit applications received after the date the rescindment is accepted by the DOR.

The bill requires the DOR to provide a copy of its approval or denial letter to the eligible charitable organization specified by the taxpayer within 10 days after approving or denying the conveyance, transfer, or assignment of a tax credit or the rescindment of a tax credit. The DOR must also include the eligible charitable organization specified by the taxpayer on all letters or correspondence of acknowledgement for tax credits for self-accrued sales tax liability of direct pay permit holders.

For purposes of calculating the underpayment of estimated corporate income taxes under s. 220.34, F.S., and tax installment payments for taxes on insurance premiums or assessments under s. 624.5092, F.S., the bill provides that the final amount due is the amount after corporate income or insurance premium tax credits earned for contributions to eligible charitable organizations are deducted. For purposes of determining whether a penalty or interest under s. 220.34(2)(d)1., F.S., will be imposed for underpayment of estimated corporate income tax, a taxpayer may, after earning a corporate income tax credit, reduce any estimated payment in that taxable year by the amount of the credit. For purposes of determining whether a penalty under s. 624.5092, F.S., will be imposed, an insurer may, after earning an insurance premium tax credit for a taxable year, reduce any installment payment for such taxable year of 27 percent of the amount of the net tax due as reported on the return for the preceding year under s. 624.5092(2)(b), F.S., by the amount of the credit.

The bill provides that if any provision or portion of the Home Away From Home Tax Credit, s. 211.0253, F.S., s. 212.1834, F.S., s. 220.1877, F.S., s. 561.1213, F.S., or s. 624.51057, F.S., or the application thereof to any person or circumstance is held unconstitutional by any court or is otherwise declared invalid, the unconstitutionality or invalidity does not affect any credit earned under these sections by any taxpayer with respect to any contribution paid to an eligible charitable organization before the date of a determination of unconstitutionality or invalidity. The credit will be allowed at such time and in such a manner as if a determination of unconstitutionality or invalidity had not been made, provided that the allowance of any credit to any taxpayer in excess of one dollar of credit for each dollar paid to an eligible charitable organization is prohibited.

The bill authorizes the DOR, the DBPR's Division of Alcoholic Beverages and Tobacco, and the DOH to develop a cooperative agreement to assist in the administration of the Home Away From Home Tax Credit, as needed.

The bill authorizes the DOR to adopt rules necessary to administer the Home Away From Home Tax Credit, and ss. 211.0253, 212.1834, 220.1877, 561.1213, and 624.51057, F.S., including rules establishing application forms, procedures governing the approval of tax credits and carryforward tax credits, and procedures to be followed by taxpayers when claiming approved tax credits on returns.

The bill authorizes the DBPR's Division of Alcoholic Beverages and Tobacco to adopt rules necessary to administer its responsibilities under the Home Away From Home Tax Credit and s. 561.1213, F.S.

The bill authorizes the DOH to adopt rules necessary to administer the Home Away From Home Tax Credit, including, but not limited to, rules establishing application forms for organizations seeking designation as eligible charitable organizations.

Notwithstanding any provision of s. 213.053, F.S., to the contrary, the bill provides that sharing information with the DBPR's Division of Alcoholic Beverages and Tobacco related to a tax credit under the Home Away From Home Tax Credit is considered the conduct of the DOR's official duties as contemplated in s. 213.053(8)(c), F.S., and the DOR and the DBPR's Division of Alcoholic Beverages and Tobacco are specifically authorized to share information as needed to administer the Home Away From Home Tax Credit.

Section 6 creates s. 561.12135, F.S., to authorize a tax credit of 100 percent of an eligible contribution made to an eligible charitable organization beginning January 1, 2026, under the Home Away From Home Tax Credit against any tax due under s. 563.05, F.S., s. 564.06, F.S., or s. 565.12, F.S., except excise taxes imposed on wine produced by manufacturers in Florida from products grown in Florida. However, a credit allowed for the alcoholic beverage tax on beer, wine, and spirits may not exceed 90 percent of the tax due on the return on which the credit is taken. For the purpose of the distributions of tax revenue under ss. 561.121 and 564.06(10), F.S., the DBPR's Division of Alcoholic Beverages and Tobacco must disregard any tax credits allowed for the alcoholic beverage tax on beer, wine, and spirits to ensure that any reduction in tax revenue received which is attributable to the tax credits results only in a reduction in distributions to the General Revenue Fund.

Section 7 creates s. 624.51059, F.S., to authorize a tax credit of 100 percent of an eligible contribution made to an eligible charitable organization for taxable years beginning on or after January 1, 2026, under the Home Away From Home Tax Credit against any tax due for a taxable year under s. 624.509(1), F.S., after deducting from such tax deductions for assessments made pursuant to s. 440.51, F.S.; credits for taxes paid under ss. 175.101 and 185.08, F.S.; credits for income taxes paid under ch. 220, F.S.; and the credit allowed under s. 624.509(5), F.S., as such credit is limited by s. 624.509(6), F.S. An eligible contribution must be made to an eligible charitable organization on or before the date the taxpayer is required to file a return pursuant to ss. 624.509 and 624.5092, F.S. An insurer claiming a credit against premium tax liability for insurance premium tax is not required to pay any additional retaliatory tax levied under s. 624.5091, F.S., as a result of claiming such credit. Section 624.5091, F.S., does not limit such credit in any manner.

Section 8 creates a non-statutory section of the Laws of Florida to authorize the DOR to adopt emergency rules under s. 120.54(4), F.S., for the purpose of implementing provisions related to the Home Away From Home Tax Credit. Notwithstanding any other law, emergency rules adopted are effective for six months after adoption and may be renewed during the pendency of procedures to adopt permanent rules addressing the subject of the emergency rules.

Section 9 creates a non-statutory section of the Laws of Florida to appropriate, for the 2025-2026 fiscal year, \$208,000 in nonrecurring funds from the General Revenue Fund to the DOR for the purpose of implementing the Home Away From Home Tax Credit.

Section 10 provides an effective date of July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill may decrease the state's tax collections. The Home Away From Home Tax Credit is capped at \$2.5 million for each state fiscal year.

Under current law:⁴⁶

- The revenue for the state portion of an employee's state and national criminal history record check will be \$24 per name submitted; and
- The revenue for the state portion of a volunteer's state and national criminal history record check will be \$18 per volunteer name submitted.

This revenue goes into FDLE's Operating Trust Fund and is subject to a general revenue service charge of eight percent, pursuant to ch. 215, F.S.⁴⁷

B. Private Sector Impact:

Eligible charitable organizations under the Home Away From Home Tax Credit will benefit from the dollar-for-dollar credit against certain tax liabilities up to a cap of \$2.5 million. However, eligible charitable organizations will incur the cost of obtaining an

⁴⁶ Section 943.053, F.S.

⁴⁷ Florida Department of Law Enforcement, *Agency Analysis for SB 908 (Feb. 15, 2021)* (on file with the Committee on Health Policy).

audit from an independent certified public accountant, as well as the fees associated with criminal history checks. VECHS approved organizations pay:⁴⁸

- \$36 for each employee electronic submission; and
- \$28 for each volunteer electronic submission.

C. Government Sector Impact:

The bill appropriates \$208,000 in non-recurring general revenue funds to the DOR to implement its provisions. Ongoing operational impacts on the DOR can be accommodated using existing resources.

The DOH will incur administrative and operational costs to implement the bill, which may require additional appropriations.

The state may experience a negative fiscal impact up to \$2.5 million from the decreased collection of tax revenue that may result from implementation of this bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 220.02 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 211.02535, 212.18345, 220.18775, 402.63, 561.12135, and 624.51059.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

⁴⁸ *Supra* note 45.