

**The Florida Senate**  
**PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT**

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

Prepared By: Education Pre-K - 12 Committee

BILL: CS/SB 1212

INTRODUCER: Committee on Education Pre-K - 12 and Senator Wise

SUBJECT: Corporate Income Tax Credit Program

DATE: April 6, 2007

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	deMarsh-Mathues	Matthews	ED	<b>Fav/CS</b>
2.	Ray	Jameson	CF	<b>Favorable</b>
3.			FT	
4.			EA	
5.				
6.				

**I. Summary:**

Currently, a student is eligible for a Corporate Tax Credit (CTC) scholarship if he or she qualifies for free or reduced-price school lunches under the National School Lunch Act<sup>1</sup> and meets the following requirements:

- Was counted as a full-time equivalent student during the previous state fiscal year for the purpose of state per-student funding;
- Is eligible to enter kindergarten or the first grade; or
- Received a scholarship under the CTC program or from the state the previous school year.

The bill expands the eligibility criteria for the CTC program to add the following:

- A student who was counted as a full-time equivalent student at any time during the previous state fiscal year in a Department of Juvenile Justice (DJJ) educational program under s. 1003.52, F.S., for the purpose of state per-student funding; and
- A student who has been placed in foster care.

The bill also defines the term “parent” for the purpose of a child’s participation in the CTC program to have the same meaning as in the School Code, s. 1000.21(5), F.S. Finally, for the purpose of continued participation in the CTC program, the bill defines family income for a

<sup>1</sup> 42 U.S.C. s. 1758(b)(1). Children from families with incomes at or below 130 percent of the poverty level are eligible for free meals. Those with incomes between 130 percent and 185 percent of the poverty level are eligible for reduced-price meals. See <http://www.fldoe.org/FNM/natschoollunch/>

foster care student as the income that is considered in determining whether the student qualifies for free or reduced-price meals under the National School Lunch Act.

The bill amends s. 220.187, F.S.

## II. Present Situation:

### Corporate Income Tax Credit Program

The 2001 Legislature enacted the CTC program for implementation in the 2002 tax year. Under the program, corporate taxpayers may take a dollar-for-dollar tax credit for contributions to scholarship-funding organizations (SFOs) that provide scholarships to students who qualify for free or reduced-price school lunches under the National School Lunch Act<sup>2</sup> and who:

- Were counted as a full-time equivalent student during the previous state fiscal year for the purpose of state per-student funding;
- Are eligible to enter kindergarten or the first grade; or
- Received a scholarship under the CTC program or from the state the previous school year.

A student is not eligible to receive a CTC scholarship if he or she:

- Is currently enrolled in a school operating for the purpose of providing educational services to youth in DJJ commitment programs;
- Receives a scholarship from another SFO under s. 220.187, F.S., or other educational scholarship under ch. 1002, F.S.;
- Participates in a home education program, as defined in s. 1002.01(1), F.S., or a private tutoring program pursuant to s. 1002.43, F.S.;
- Participates in a virtual school, correspondence school, or distance learning program that receives state funding pursuant to the student's participation unless the participation is limited to no more than two courses per school year; or
- Is currently enrolled in the Florida School for the Deaf and the Blind.

Contingent upon available funds, a scholarship student will not lose his or her scholarship due to a change in the economic status of the student's parents unless the parents' economic status exceeds 200 percent of the federal poverty guidelines.<sup>3</sup> The amount of the scholarship provided to a child for a single school year by any eligible SFO may not exceed the following limits:

- \$3,750 for a scholarship awarded to a student for tuition, textbooks, or transportation to attend an eligible private school, 75 percent of which must be used for tuition; or
- \$500 for a scholarship awarded to a student for transportation to a Florida public school that is located outside the district in which the student resides.

An SFO must be a charitable organization exempt from federal income tax pursuant to s. 501(c)(3) of the Internal Revenue Code and may not use any portion of the taxpayer's contribution for administrative expenses. Scholarships must be provided for eligible students on

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<sup>2</sup> Id.

<sup>3</sup> s. 220.187(3), F.S.

a first-come, first-served basis, unless the student qualifies for priority consideration. A SFO may not restrict or reserve scholarships for use at a particular private school or for the child of an operator or owner of a private school or SFO. A taxpayer making the contribution may not designate a specific child or group of children as the beneficiaries of the scholarship. The Legislature initially capped the CTC program at \$50 million in tax credits per state fiscal year, but subsequently expanded the cap to \$88 million in 2003.<sup>4</sup> Following is a summary of information related to the tax credits approved by the Department of Revenue:<sup>5</sup>

Tax Year	Number of Approved Tax Credit Applications	Number of Taxpayers	Total Amount of Tax Credits Approved for All Taxpayers	Number of Small Businesses Approved for Tax Credits	Total Amount of Tax Credits Approved for Small Businesses
2002-03	77	48	\$47,686,000	4	\$186,000
2003-04	114	56	\$47,579,000	3	\$79,000
2004-05	102	58	\$47,560,000	2	\$60,000
2005-06	126	79	\$80,323,071	2	\$4,000
2006-07	93	64	\$87,120,000	0	\$0

The following reflects the credit allocations per SFO for 2006-2007:<sup>6</sup>

Academy Prep Foundation, Inc	\$736,250
Children First Central Florida	\$39,053,000
Florida School Choice Fund (Florida Pride)	\$44,142,028
Credit Carry Forward	\$3,188,722
Total Allocations	\$87,120,000

Currently, there are 926 participating schools and 16,629 students receiving scholarships from three SFOs: Academy Prep Foundation, Inc., 23 students; Florida PRIDE, 8,223 students; and Children First, 8,383 students.<sup>7</sup> Three SFOs no longer participate in the program: Faith Based Scholarship Foundation of Florida; FloridaChild; and Silver Archer. YES OPPORTUNITIES, INC., and Florida PRIDE merged to become Florida PRIDE, while H.E.R.O.E.S. and Children First Central Florida merged to become Children First Florida.

**Children in Foster Care**

The Department of Children and Families (DCF) administers the child welfare program that serves children and families in their homes and children who have been removed from their families and placed in foster care. Under current law, foster care is defined as the care provided to a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination of these settings.<sup>8</sup> For the purpose of foster care, a child is any unmarried person under the age of 18 years who has not been emancipated by order of the court.<sup>9</sup>

<sup>4</sup> s. 9, ch. 2003-391, L.O.F.

<sup>5</sup> Department of Revenue, March 12, 2007.

<sup>6</sup> Id.

<sup>7</sup> *Corporate Tax Credit Scholarship Program Quarterly Report*, Florida Department of Education, February 2007.

<sup>8</sup> s. 39.01(30), F.S.

<sup>9</sup> s. 39.01(12), F.S.

Current law provides that it is a goal for foster care children to receive a free and appropriate education, to have minimal disruption of their education, and to be retained in their home school, if appropriate.<sup>10</sup> The DCF, or a community-based care lead agency acting on its behalf, is required to enroll foster care and other dependent children in school.<sup>11</sup> Chapter 39, F.S., does not specify the types of schools in which a foster care or other dependent child may be placed. The Florida School Code provides that a student's parent may place a student in private tutoring, a public or private school, or a home education program.<sup>12</sup> The term "parent" means either or both parents of a student, any guardian of a student, any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent.<sup>13</sup>

Foster care children may be eligible to receive free or reduced-price school lunches under the National School Lunch Act, depending upon their personal income. The income eligibility requirements provide that a foster child who is living with a household but who remains the legal responsibility of the welfare agency or court is considered a household of one.<sup>14</sup> The foster child's personal income that must be considered consists of funds provided by the welfare agency for the personal use of the child (e.g., clothing, school fees, and allowances) and other funds received by the child (e.g., employment income and money provided by the child's family for personal use).<sup>15</sup>

For FY 2004-2005, there were 29,671 children placed in out-of-home foster care. Of these children, 14,519 were in state custody. In FY 2005-2006, there were 29,621 children placed in out-of-home foster care. Of these, 13,881 children were in state custody. In addition to the children in state custody, there are children who are placed with relatives or non-relatives (for example, a friend of the family).<sup>16</sup>

### **Educational Services in DJJ Programs**

The Department of Education serves as the lead agency for juvenile justice education programs, curriculum, support services, and resources. The district school board of the county in which the residential or nonresidential care facility or juvenile assessment facility is located must provide appropriate educational assessments and an appropriate program of instruction and special education services.<sup>17</sup>

School programming in juvenile justice detention, commitment, and rehabilitation programs must be made available by the local school district during the juvenile justice school year.<sup>18</sup> A student participating in a DJJ program pursuant to ch. 985, F.S., which is sponsored by a community-based agency or is operated or contracted for by the DJJ must receive educational

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<sup>10</sup> s. 39.4085(17), F.S.

<sup>11</sup> s. 39.0016, F.S.

<sup>12</sup> s. 1002.20(6), F.S.

<sup>13</sup> s. 1000.21(5), F.S.

<sup>14</sup> *Eligibility Guidance for School Meals Manual*, U.S. Department of Agriculture, August 2001, p. 33, available at: [http://www.fns.usda.gov/cnd/Guidance/eligibility\\_guidance.pdf](http://www.fns.usda.gov/cnd/Guidance/eligibility_guidance.pdf)

<sup>15</sup> *Eligibility Guidance for School Meals Manual*, U.S. Department of Agriculture, August 2001, p. 29, available at: [http://www.fns.usda.gov/cnd/Guidance/eligibility\\_guidance.pdf](http://www.fns.usda.gov/cnd/Guidance/eligibility_guidance.pdf)

<sup>16</sup> DCF Quick Facts, Florida Department of Children and Families, p. 20, January 19, 2007.

<sup>17</sup> s. 1003.52(3), F.S.

<sup>18</sup> s. 1003.52(4), F.S.

programs according to rules of the State Board of Education.<sup>19</sup> During the 2004-2005 school year, school districts provided educational services to a total of 44,998 students in juvenile justice facilities.<sup>20</sup>

### III. Effect of Proposed Changes:

The bill expands eligibility for the CTC program to include the following:

- A student who was counted as a full-time equivalent student at any time during the previous state fiscal year in a DJJ educational program under s. 1003.52, F.S., for the purpose of state per-student funding; and
- A student who has been placed in foster care.

The bill also defines the term “parent” for the purpose of a child’s participation in the CTC program to have the same meaning as in the School Code, s. 1000.21(5), F.S. For the purpose of continued participation in the CTC program, the bill defines family income for a foster care student as the income that is considered in determining whether the student qualifies for free or reduced-price meals under the National School Lunch Act.

The bill takes effect July 1, 2007.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

### V. Economic Impact and Fiscal Note:

#### A. Tax/Fee Issues:

None.

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<sup>19</sup> s. 1003.52(2), F.S.

<sup>20</sup> *Developing Effective Educational Programs in Department of Juvenile Justice Programs, Year 2004-2005*, Florida Department of Education, 2006.

**B. Private Sector Impact:**

The number of foster care parents who will actually choose CTC scholarships is unknown at this time. Similarly, it is unknown as to how many parents will choose these scholarships for students who were previously in a DJJ educational program.

**C. Government Sector Impact:**

A foster care student must meet the income eligibility requirements for the National School Lunch Program, which provide that a foster child who is living with a household but who remains the legal responsibility of the welfare agency or court is considered a household of one. For a foster care student to be eligible for reduced price meals under the National School Lunch Program, the annual income for a household of one may not exceed \$18,130 (185 percent of the federal poverty level). For a foster care student to be eligible for free meals, the annual household income may not exceed \$12,740 (130 percent of the federal poverty level).<sup>21</sup>

Under the bill, a student placed in foster care or who was previously in a DJJ educational program is eligible for the CTC program. To the extent that the student would no longer receive state funding through the Florida Education Finance Program (FEFP), there would be cost savings to the state. If the student would have attended or was attending a private school or a home education program, there would be a negative fiscal impact. The extent of the impact would be contingent upon the number of eligible children who accept CTC scholarships.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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<sup>21</sup> See *Federal Register*, Vol. 71, No. 50, March 15, 2006, Child Nutrition Programs—Income Eligibility Guidelines (effective from July 1, 2006, to June 30, 2007), pp. 13336-13338, U.S. Department of Agriculture.

## **VIII. Summary of Amendments:**

None.

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