

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7099 PCB FTSC 14-02

Tax Credit Scholarship

Programs

SPONSOR(S): Choice & Innovation Subcommittee, Finance & Tax Subcommittee, Workman and Diaz, M.

TIED BILLS: **IDEN./SIM. BILLS:** SB 1620

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Subcommittee	11 Y, 7 N	Flieger	Langston
1) Choice & Innovation Subcommittee	9 Y, 4 N, As CS	Beagle	Fudge

SUMMARY ANALYSIS

The bill revises the Florida Tax Credit Scholarship program's student eligibility criteria, scholarship amounts, tax credit availability, and scholarship-funding organization (SFO) accountability standards. It also creates a new Florida Sales Tax Credit Scholarship program that allows dealers who collect state sales and use tax to receive tax credits for making donations to SFOs. The administrative provisions of the new program will parallel those of the existing program.

The bill removes the prior public attendance requirement for students whose household income is below 185% of the federal poverty level. Beginning in FY 2016-17, new eligibility is created for students whose household income is greater than 185% but does not exceed 260% of the federal poverty level and who are eligible to enter kindergarten or first grade, or attended public school in the prior year. SFOs are required to serve all new applicants at or below 185% of the federal poverty level before serving students above 185%.

The bill increases the maximum per-student scholarship amount by 4% so that the maximum is 84% of the Florida Education Finance Program per-student funding amount. Although eligibility is extended to students with higher household incomes, the bill establishes a means-tested, tiered phasedown of the maximum per-student scholarship amount, beginning in FY 2016-17:

- o The amount is reduced by 12% for household incomes between 200% and 215%
- o The amount is reduced by 26% for household incomes between 215% and 230%
- o The amount is reduced by 40% for household incomes between 230% and 245%
- o The amount is reduced by 50% for household incomes between 245% and 260%

The bill strengthens the SFO application, approval, and renewal processes for program participation by requiring additional financial, organizational, and operational documentation in the application, thereby increasing SFO accountability. In consultation with the Department of Revenue and Chief Financial Officer, the Department of Education will review and provide recommendations for approval or disapproval of each SFO's application. The State Board of Education will give final approval or disapproval. The initial application must include a surety bond or letter of credit for an amount equal to 25% of anticipated scholarship funds for each school year or \$100,000, whichever is greater, which may be adjusted quarterly thereafter to equal the amount of undispersed funds. A renewal application must include a surety bond or letter of credit equal to the amount of undispersed funds, with a minimum amount of \$100,000 and a maximum of \$25 million; a copy of the SFO's IRS Form 990, an annual audit; and an annual report regarding donations, expenditures, unexpended funds, use of administrative funds, scholarship applications, and scholarship recipients.

Both tax credit scholarship programs will operate under a combined tax credit cap. Credits may be approved under either program until the sum of the credits for both programs reach the combined cap. Assuming that each year the annual tax credit amount is at least 90% of the prior year's cap, the bill increases the combined cap by approximately \$43.65 million over that in current law in each year from FYs 2014-15 through 2018-19. The bill also allows tax credits for both programs to be transferred between affiliated corporate entities.

Staff estimates that, while the program as revised by this bill will produce net savings to the state over the next five years (i.e., expenditure savings greater than revenue losses) the net savings will be substantially reduced, compared to current law. Net savings are estimated to be \$5.5 million higher in FY 2014-15, compared to current law, and lower by \$0.5 million, \$35.6 million, \$48.1 million and \$62.4 million in fiscal years ending 2016, 2017, 2018, and 2019, respectively.

The bill takes effect July 1, 2014.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7099a.CIS

DATE: 3/20/2014

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

History of the Florida Tax Credit Scholarship Program

The Florida Tax Credit Scholarship Program (FTC Program) provides scholarships to eligible low-income students for private school tuition and fees or transportation expenses to a Florida public school located outside of the school district in which the student resides or developmental research laboratory school.¹ The FTC Program is funded with contributions to private nonprofit scholarship-funding organizations (SFOs) from taxpayers who receive a tax credit for use against their liability for corporate income tax; insurance premium tax; severance taxes on oil and gas production; self-accrued sales tax liabilities of direct pay permit holders; or alcoholic beverage taxes on beer, wine, and spirits.² The tax credit is equal to 100 percent of the eligible contributions made.³

The Legislature initially capped the FTC Program at \$50 million in tax credits per state fiscal year,⁴ but expanded the cap to \$88 million in 2003.⁵ Beginning in FY 2008-09, the cap was increased by \$30 million to \$118 million.⁶ Until 2009, tax credits under the program were only available against the state's corporate income tax liability.⁷ In 2009, the Legislature expanded the revenue sources against which tax credits can be claimed to include the insurance premium tax.⁸ The insurance premium tax is imposed on insurance premiums written in Florida and paid by insurance companies. In 2010, the revenue sources against which tax credits can be claimed were further expanded to include severance taxes on oil and gas production;⁹ self-accrued sales tax liabilities of direct pay permit holders;¹⁰ and alcoholic beverage taxes on beer, wine, and spirits.¹¹ Tax credits received under this program may not be transferred, with an exception for transactions where all of the assets of a taxpayer who has received a credit are being transferred.¹²

The Legislature also increased the tax credit cap to \$140 million, beginning in FY 2010-11, and authorized the cap to increase by 25 percent for the subsequent year whenever credits approved by Department of Revenue (DOR) in the prior fiscal year exceeded 90 percent of the tax credit cap for that year, beginning in FY 2011-12.¹³ In 2012, the Legislature increased the cap for FY 2012-13 to \$229 million, an additional \$10.25 million increase over the 25 percent increase provided by statute.

During the 2012-13 school year, scholarships in the amount of \$206.9 million were awarded to a total of 51,075 students enrolled in 1,338 participating Florida private schools.¹⁴

Scholarship Funding Organizations

¹ Section 1002.395(3), (5), and (6)(d), F.S.

² Section 1002.395(1) and (5), F.S.

³ Sections 220.1875 and 1002.395(5), F.S.

⁴ Section 5, ch. 2001-225, L.O.F.

⁵ Section 9, ch. 2003-391, L.O.F.

⁶ Section 1, ch. 2008-241, L.O.F.

⁷ See s. 3, ch. 2009-108, L.O.F.

⁸ *Id.*; a premium tax pursuant to s. 624.509, F.S.

⁹ Section 211.0251, F.S.

¹⁰ Section 212.1831, F.S.

¹¹ Sections 211.0251, 212.1831, and 561.1211, F.S., direct DOR and the Department of Business and Professional Regulation to disregard tax credits accordingly for purposes of the distributions of tax revenue under ss. 211.06, 212.20, 561.12(1)(a) and 564.06(10), F.S., so that only amounts distributed to the General Revenue Fund are reduced.

¹² Section 1002.395(5)(d), F.S.

¹³ Section 1, ch. 2010-24, L.O.F.

¹⁴ Florida Department of Education, *Fast Facts and Program Statistics*, available at,

http://www.floridaschoolchoice.org/Information/CTC/files/Fast_Facts_FTC.pdf (last accessed February 14, 2014)

SFOs are charitable organizations exempt from federal income tax¹⁵ that administer the receipt of contributions and distribution of scholarship awards.¹⁶ Scholarships must be provided for eligible students on a first-come, first-serve basis, unless the student qualifies for priority consideration. An 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.¹⁷ Similarly, a taxpayer making a contribution may not designate a specific child or group of children as the beneficiaries of the scholarship.¹⁸ If the SFO has been in operation for three years and does not have any negative financial findings, the SFO may use up to three percent of the contributions received for reasonable and necessary administrative expenses. No more than one-third of the funds available for administrative expense may be used for expenses related to recruitment of contributions.¹⁹

Any non-profit organization may apply to the Department of Education (DOE) to become an SFO. Among other things, all owners and operators of the organization must pass a level 2 background check upon beginning employment there and every 5 years thereafter. Once approved, an SFO must provide to the Auditor General and DOE an annual financial and compliance audit of its accounts and records conducted by an independent certified public accountant and in accordance with rules adopted by the Auditor General. SFOs must submit to DOE quarterly reports regarding the number of students participating and the schools at which they are enrolled. SFOs must expend at least 75 percent of donations remaining after administrative costs as scholarship payments each year. Any amounts carried forward to the next year must be spent in that year.²⁰

Participating Private Schools

Private schools participating in the program must provide documentation of financial stability and comply with federal antidiscrimination law and all state laws regulating private schools.²¹ To be eligible for participation in the program, a private school must demonstrate fiscal soundness, provide information on academic results, and meet DOE and SFO reporting requirements.²² DOE may terminate eligibility if the private school fails to meet requirements.²³

Student Eligibility

A student is eligible for a FTC Program scholarship if he or she qualifies for free or reduced-price school lunches under the National School Lunch Act²⁴ or is on the direct certification list²⁵ and:

- Was counted as a full-time student during the previous state fiscal year for purposes of state per-student funding;
- Received a scholarship from an eligible nonprofit SFO or the State of Florida during the previous school year; or
- Is eligible to enter kindergarten through fifth grade.

¹⁵ Section 1002.395(2)(f), F.S.; s. 501(c)(3) of the Internal Revenue Code.

¹⁶ Section 1002.395(6), F.S.

¹⁷ Section 1002.395(6), F.S.

¹⁸ Section 1002.395(2)(e), F.S.

¹⁹ Section 1002.395(6), F.S.

²⁰ Section 1002.395(6), F.S.

²¹ Section 1002.421, F.S.

²² Section 1002.395(8), F.S.

²³ Section 1002.395(9), F.S.

²⁴ The National School Lunch Program is a federally funded program administered by the United States Department of Agriculture that assists schools and other agencies in providing nutritious meals to children at reasonable prices. 42 U.S.C. s. 1758(b). In Florida, the Florida Department of Agriculture and Consumer Services, Division of Food, Nutrition, and Wellness administers the program. Chapter 595, F.S.; Florida Department of Agriculture and Consumer Services, *National School Lunch Program*, <http://www.freshfromflorida.com/Divisions-Offices/Food-Nutrition-and-Wellness/Nutrition-Programs/National-School-Lunch-Program> (last visited Sept. 5, 2013).

²⁵“Direct certification list” means the certified list of children who qualify for the food assistance program, the Temporary Assistance to Needy Families Program, or the Food Distribution Program on Indian Reservations provided to the Department of Education (DOE) by the Department of Children and Family Services. Section 1002.395(2)(c), F.S.

Eligibility is also provided to students who are placed, or during the previous state fiscal year were placed, in foster care, regardless of household income.²⁶ Out-of-home care more generally refers to any case in which a child is removed from the home of the parent, whether it is placement in foster care or with a relative or other care giver.²⁷ Foster care is a placement with a foster family or in a group home.²⁸ An out-of-home placement that is not foster care typically refers to a placement with a relative.²⁹ Students placed in out-of-home care that is not foster care are not currently eligible for an FTC Program scholarship.

Contingent upon available funds, a student does not lose his or her scholarship due to a change in the economic status of the student's parents unless the parents' household income exceeds 230 percent of the federal poverty guidelines.³⁰ A sibling of a scholarship student who continues to participate in the program and resides in the same household as the student is also eligible as a first-time scholarship recipient, as long as the student's and the sibling's household income level does not exceed 230 percent of the federal poverty level.³¹

A student is not eligible for a scholarship if enrolled in a school providing educational services to youth in Department of Juvenile Justice commitment programs, is receiving a scholarship from another SFO, is receiving another scholarship pursuant to ch. 1002, F.S., is being home-schooled, is participating in certain private tutoring programs, is participating in a state-funded virtual school, correspondence program, or distance learning program beyond two courses per year, or is enrolled in the Florida School for the Deaf and the Blind.

Student Scholarship Amounts

The maximum scholarship award to each individual student is set at a percentage of the unweighted Florida Education Finance Program (FEFP) student funding in the General Appropriations Act. The percentage for FY 2013-14 is 72 percent, or \$4,880 per student. Thereafter, the scholarship amount increases by four percentage points each fiscal year the tax credit amounts meet or exceed 90 percent of the tax credit cap. The percentage will stop increasing upon reaching 80 percent, and from that year forward, the scholarship limit will be 80 percent of the unweighted FEFP funding amount.³² The maximum limit for a scholarship awarded to a student for enrollment in a Florida public school that is located outside the district in which the student resides or in a lab school as defined in s. 1002.32, F.S., is \$500.

A student's actual scholarship is further dependent upon the student's household income level. For students with household income levels above 215 percent, but equal to or less than 230 percent of the federal poverty level, the scholarship amount is 50 percent of the maximum award. The amount increases to 75 percent of the maximum award for students with household income that is more than 200 percent but less than 215 percent of the federal poverty level. For students with a household income of 200 percent of the federal poverty level or below, the full scholarship award is available.

The following table shows the history of the program and historical tax credit information.³³

²⁶ Section 1002.395(3)(b)1. – 2., F.S.; *see also* s. 39.01(31), F.S.

²⁷ Rule 65C-30.001(91), F.A.C.

²⁸ Section 39.01(31), F.S.

²⁹ Ch. 39, F.S.; *see chs.* 65C-13 (Licensed Out-Of-Home Care), 65C-15 (Child-Placing Agencies), 65C-28 (Out-Of-Home Care), 65C-29 (Protective Investigations), and 65C-30, F.A.C. (General Child Welfare Provisions). Foster caregivers must be licensed. Relative caregivers are not licensed. All out-of-home placements made by the Department of Children and Families, both foster care and placement with relatives, are court ordered. Legal custody is transferred from the parent to the relative or other care giver. A DCF caseworker is assigned to monitor the placement. Caregivers and other people in the home must have background checks. *Id.*; Telephone interview with Department of Children and Families staff (Jan. 29, 2014).

³⁰ Section 1002.395(3)(b)2., F.S.

³¹ Section 1002.395(3)(b)3., F.S.

³² Section 1002.395(12)(a), F.S.

³³ Florida Department of Education, *Fast Facts and Program Statistics*, available at, http://www.floridaschoolchoice.org/Information/CTC/files/ctc_fast_facts.pdf. (last accessed 2/14/2014).

	Award Per Student	Student Scholarships	Awarded Scholarships	Maximum Tax Credit Cap	Tax Credits Approved³⁴
FY 2001-02	\$3,500			\$50,000,000	
FY 2002-03	\$3,500	15,585	\$50,000,000	\$50,000,000	\$47,686,000
FY 2003-04	\$3,500	11,550	\$40,000,000	\$88,000,000	\$47,579,000
FY 2004-05	\$3,500	10,549	\$36,655,500	\$88,000,000	\$47,560,000
FY 2005-06	\$3,500	15,123	\$46,745,482	\$88,000,000	\$80,323,071
FY 2006-07	\$3,750	17,819	\$59,300,655	\$88,000,000	\$87,123,000
FY 2007-08	\$3,750	21,493	\$73,450,691	\$88,000,000	\$85,611,140
FY 2008-09	\$3,950	24,871	\$88,626,463	\$118,000,000	\$97,415,847
FY 2009-10	\$3,950	28,927	\$106,049,940	\$118,000,000	\$111,773,617
FY 2010-11	\$4,106	34,550	\$129,474,868	\$140,000,000	\$136,321,200
FY 2011-12	\$4,011	40,248	\$147,481,308	\$175,000,000	\$174,459,107
FY 2012-13	\$4,335	51,075	\$206,974,102	\$229,000,000	\$229,000,000

Effect of Proposed Changes

Student Eligibility

Beginning in FY 2014-15, the prior public school attendance requirement for students whose household income is below 185 percent of the federal poverty level is removed. Beginning in FY 2016-17, the maximum household income for eligibility is increased to 260 percent of the federal poverty level. Students with household incomes between 185 percent and 260 percent of the federal poverty level are required to have spent the prior school year in public school unless they are entering kindergarten or first grade.

The bill adds eligibility for students placed in out-of-home care that is not foster care. This change enables students who are placed with a relative or other caregiver to receive a scholarship. Students in foster or another out-of-home care placement will remain eligible for the program until age 21 or graduation, whichever comes first. Additionally, they will be allowed to apply to enter the program at any time.

The bill requires SFOs to give priority among new applicants to those students with household incomes below 185 percent of the federal poverty level and to students in foster or out-of-home care. Students who received a scholarship in the prior year will continue to receive priority over any new applicants.

In order to comply with the expanded household income requirements, parents of students who wish to participate must authorize the SFO to access information held by other state or federal agencies necessary for verification of income.

Student Scholarship Amounts

The bill increases the maximum scholarship limit from 80 percent to 84 percent of the unweighted FEFP funding amount.

In concert with the FY 2016-17 increase in maximum household income for eligibility discussed above, the bill creates a new tiered phasedown of the maximum per-student scholarship amount. For household incomes between 200 percent and 215 percent of the federal poverty line, the maximum is reduced by 12 percent. For household incomes between 215 percent and 230 percent, the maximum is reduced by 26 percent. For household incomes between 230 percent and 245 percent, the maximum is reduced by 40 percent. Finally, for household incomes between 245 percent and the newly increased maximum of 260 percent the amount is reduced by 50 percent.

Scholarship Funding Organization Accountability

³⁴ Email from Department of Revenue on file with House Finance and Tax.
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The bill creates a new application process for organizations that wish to become SFOs. In order to participate, organizations must submit an application for initial approval to DOE's Office of Independent Education and Parental Choice by September 1 of the year prior to the year in which that SFO intends to begin offering scholarship funding. After consultation with the DOR and Chief Financial Officer, the Commissioner of Education provides a recommendation for each application to the State Board of Education, which will have final approval or disapproval responsibility. Approved SFOs must annually submit a renewal application to maintain eligibility to participate in the tax credit scholarship programs.

The initial application must include a copy of a SFO's incorporation documents and organizational chart, a description of the organization's financial plan and intended area of operation, and descriptions of the organization's intended operational procedure. Each SFO is also required to include with its initial application a copy of a surety bond or letter of credit for the amount equal to 25 percent of anticipated donations or \$100,000, whichever is greater. This bond or letter of credit may be adjusted on a quarterly basis thereafter to equal the amount of undispersed donations based upon a statement from a certified public account verifying the amount. The surety bond or letter of credit requirement is waived if the cost of acquiring such bond or letter exceeds the average 10-year cost by 200 percent.

The renewal application must include a surety bond or letter of credit equal to the amount of undispersed funds, with a minimum amount of \$100,000 and a maximum of \$25 million; the organization's IRS Form 990;³⁵ an annual audit; and an annual report regarding donations, administrative expenditures, scholarship applications, and scholarship recipients. Any funds held by a SFO whose application for renewal is denied revert to DOR for redistribution to eligible SFOs.

SFOs already approved as of July 1, 2014, will have until August 1, 2014, to provide a copy of a surety bond or letter of credit. If such an SFO does not have undispersed donations, the bond or letter of credit must be 25 percent of anticipated donations or \$100,000, whichever is greater. Those with undispersed donations must have a bond or letter of credit in an amount equal to undisbursed donations, not to exceed \$25 million.

The allowable uses of the administrative allowance are expanded to include professional development to support participating schools.

The bill strengthens the background check requirements for owners and operators of SFOs by adding a number of additional disqualifying offenses.³⁶

Tax Credits

The bill creates a new section of statute, s. 1002.396, F.S., establishing the Sales Tax Credit Scholarship Program, which allows sales tax dealers to receive credit against their sales and use tax liability³⁷ under ch. 212, F.S., for donations made to SFOs participating in the new program. The Sales Tax Credit Scholarship Program will operate separately from the existing FTC Program; however, many of the administrative requirements for the two programs are the same, e.g., student, private school, and SFO eligibility and scholarship prohibitions.

The bill also establishes, in newly created s. 1002.397, F.S., a unified tax credit cap for the new Sales Tax Credit Scholarship Program and FTC Program. DOR may approve tax credits under either program until the sum of such approvals under both programs combined reaches the limits specified in the bill.

The cap is set at \$401.45 million in FY 2014-15, which is \$43.65 million above the cap expected to apply under current law. In subsequent years, the cap can increase sequentially to \$490.95 million, \$602.75 million, \$742.55 million, and \$917.25 million. The amount of credits approved each year will be required to reach 90 percent of the new combined cap in each year to trigger an increase in the

³⁵ This is an informational return for tax exempt organizations. The deadline for submitting the form 990 is extended until November 30 instead of September 1.

³⁶ The new offenses include any felony and numerous misdemeanor-level financial crimes

³⁷ Credits may not be allowed against rental car surcharge liability under ch. 212, F.S.

subsequent year. Past experience suggests that the above stated levels will be achieved during the next five years. If so, then in each of the FYs 2014-15 through 2018-19, the cap is expected to be approximately \$43.65 million above the levels expected under current law.

Additionally, taxpayers and dealers will be able to transfer tax credits received under both tax credit scholarship programs so long as the transfer is between members of an affiliated group of corporations. The transferred tax credit must be applied against the same tax as it was to be applied against prior to the transfer. Taxpayers and dealers must notify the DOR (who in turn notifies the Division of Alcoholic Beverages and Tobacco for credits against excise taxes on alcoholic beverages) of their intent to transfer a credit, and the credit is not available until DOR approves the transfer.

Notification

The bill also requires a copy of the letter approving a taxpayer or dealer's tax credit application be provided by DOR to the SFO designated in the letter to receive a donation. The bill revises the confidentiality provisions of s. 213.053, F.S., to allow this letter to be provided.

Rulemaking

The bill grants emergency rulemaking authority to DOR and DOE.

B. SECTION DIRECTORY:

Section 1. Amends s. 212.1831, F.S., allowing credits to be granted against sales and use tax liability under the new Sales Tax Credit Scholarship Program.

Section 2. Amends s. 213.053, F.S., revising confidentiality requirements for the Department of Revenue.

Section 3. Amends s. 1002.395, F.S., making various changes to the Tax Credit Scholarship Program.

Section 4. Creates s. 1002.396, F.S., creating the Sales Tax Scholarship Program.

Section 5. Creates s. 1002.397, F.S., creating a new combined cap for tax credits approved under the two scholarship programs.

Section 6. Amending s. 1002.421, F.S., conforming a cross reference.

Section 7. Providing that any scholarship funding organization approved prior to July 1, 2014, shall have until August 1, 2014, to comply with the new requirements for maintaining a surety bond or letter of credit.

Section 8. Granting emergency rulemaking authority to the Department of Revenue and Department of Education.

Section 9. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Staff estimates that the bill's impact on General Revenue will be -\$43.6 million, -\$43.7 million, -\$43.7 million, -\$43.7 million, and \$43.9, in the fiscal years ending 2015, 2016, 2017, 2018, and 2019, respectively.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The tax credit cap increase will allow more taxpayers to make eligible contributions to SFOs and therefore more taxpayers will receive a dollar for dollar reduction in their state tax liabilities.

D. FISCAL COMMENTS:

Staff has estimated the total program impacts on both revenue and FEFP expenditures under current law (Table 1) and the proposed law (Table 2). Table 3 displays the estimated change in total program impacts as a result of the bill. Under the bill, expenditure savings are expected to continue as fewer students will require funding within the FEFP. The tables indicate that under both current and proposed law, the FEFP savings from the program are expected to exceed the revenue losses due to tax credits through FY 2018-19, though the net savings are expected to be lower as a result of the bill. Table 3 shows the net positive savings to the state are reduced by \$0.5 million, \$35.6 million, \$48.1 million and \$62.4 million in fiscal years ending 2016, 2017, 2018, and 2019, respectively.

	2014-15	2015-16	2016-17	2017-18	2018-19
Table 1: Program Impacts Under the Current Law (Baseline)					
Revenue impact in millions	(\$357.8)	(\$447.3)	(\$559.1)	(\$698.9)	(\$873.6)
FEFP savings based on current revenue cap	\$415.0	\$489.6	\$608.7	\$758.4	\$944.8
Net State Savings in Millions	\$57.2	\$42.3	\$49.6	\$59.5	\$71.3

	2014-15	2015-16	2016-17	2017-18	2018-19
Table 2: Program Impacts Under the Bill					
Revenue impact in millions	(\$401.5)	(\$491.0)	(\$602.8)	(\$742.6)	(\$917.5)
FEFP savings based on revised revenue cap	\$464.1	\$532.8	\$616.8	\$754.0	\$926.4
Net State Savings in Millions	\$62.6	\$41.8	\$14.0	\$11.4	\$8.9

	2014-15	2015-16	2016-17	2017-18	2018-19
Table 3: Program Impacts: Proposed vs. Current					
Revenue impact in millions	(\$43.6)	(\$43.7)	(\$43.7)	(\$43.7)	(\$43.9)
FEFP savings based on revised revenue cap	\$49.1	\$43.1	\$8.1	(\$4.4)	(\$18.5)
Net State Savings in Millions	\$5.5	(\$0.5)	(\$35.6)	(\$48.1)	(\$62.4)

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

The Florida Sales Tax Scholarship Program created by this bill allows for dealers of sales and use tax to receive credits against their tax liability in exchange for donations to SFOs which may in turn provide scholarships to students who choose to attend sectarian schools. Sales and use tax collections by dealers become state funds at the moment of collection.³⁸

B. RULE-MAKING AUTHORITY:

The bill grants emergency rulemaking authority to both DOE and DOR.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 6, 2014, the Finance and Tax Subcommittee adopted 6 amendments and reported the proposed committee bill favorably. The amendments:

- Clarified that only credits are only allowed against sales and use tax liability under ch. 212, F.S., not the rental car surcharge.
- Clarified that students who are eligible under the foster care or out-of-home care criterion will remain eligible under graduation or reaching 21 years of age, whichever occurs first, regardless of household income.
- Allows an SFO which has operated under the current Tax Credit Scholarship Program to receive the administrative allowance for donations received through the new sales tax program
- Clarifies the SFO application deadline.
- Replaces terminology throughout to make clear that the donations to the new program are made by sales tax dealers.

This analysis is drafted to the bill as amended.

On March 18, 2014, the Choice & Innovation Subcommittee adopted five amendments and reported the bill favorably as a committee substitute. The amendments:

- Authorized a SFO to quarterly adjust the amount of the surety bond or letter of credit based upon a statement from a certified public accountant verifying the amount and removed DOE's duty to require a SFO to annually adjust the bond or letter based upon annual financial audits.
- Stated that the surety bond or letter of credit requirement is waived if the costs of acquiring such bond or letter exceed the average 10 year cost by 200 percent.
- Revised the amount of the surety bond or letter of credit required of initial SFO applicants to 25 percent of the anticipated scholarship funds or \$100,000, whichever is greater. The bill required this amount to be 25 percent of the anticipated funds.
- Added provisions requiring a renewal application to include a surety bond or letter or credit in an amount equal to undisbursed donations, with a minimum of \$100,000 and maximum of \$25 million.
- Increased the tax credit caps for the next five fiscal years as follows:
 - For FY 2014-15, the cap is increased from \$390 million to \$401.45 million.
 - For FY 2015-16, the cap is increased from \$475 million to \$490.95 million.
 - For FY 2016-17, the cap is increased from \$590 million to \$602.75 million.
 - For FY 2017-18, the cap is increased from \$730 million to \$742.55 million.

- For FY 2018-19, the cap is increased from \$873.6 million to \$917.25 million.

This analysis is drafted to the committee substitute as passed by the Choice & Innovation Subcommittee.