

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 Appropriations

BILL: SPB 7052

INTRODUCER: For consideration by the Appropriations Committee

SUBJECT: Florida K-12 Education Tax Credit Program Trust Fund/Department of Education

DATE: March 3, 2021

REVISED: _____

ANALYST

Underhill

STAFF DIRECTOR

Sadberry

REFERENCE

ACTION

Pre-meeting

I. Summary:

SPB 7052 creates the Florida K-12 Education Tax Credit Program Trust Fund within the Department of Education. The purpose of the trust fund is to serve as a depository of funds relating to eligible contributions made pursuant to sections 212.099 or 1002.395, Florida Statutes, as amended by SB 48 (2021). Funds from the trust fund must be used for K-12 education.

The bill takes effect on the same date (July 1, 2021) that SB 48 or similar legislation takes effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes a law.

II. Present Situation:

Trust Funds

Article III, s. 19(f) of the Florida Constitution requires that state trust funds may only be created by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only. Each trust fund must be created by general law that specifies at a minimum all of the following:

- The name of the trust fund.
- The agency of branch of state government responsible for administering the trust fund.
- The requirements or purposes the trust fund is established to meet.
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.¹

A trust fund is required to terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.² The Legislature is required to review all state

¹ Section 215.3207, F.S.

² FLA. CONST. art. III, s. 19.

trust funds at least once every four years.³ If the Legislature does not re-create a trust fund, it will be abolished four years after its initial creation pursuant to the Florida Constitution.⁴

III. Effect of Proposed Changes:

The bill creates s. 1010.88, F.S., establishing the Florida K-12 Education Tax Credit Program Trust Fund within the Department of Education. The purpose of the trust fund is to serve as a depository of funds relating to eligible contributions made pursuant to ss. 212.099 or 1002.395, F.S., as amended by SB 48 (2021).

Funds from the trust fund are authorized to be used for K-12 education. The trust fund is exempt from the general revenue service charge imposed in s. 215.20, F.S. Notwithstanding s. 216.301, F.S., any balance remaining in the trust fund at the end of any fiscal year shall remain in the trust fund at the end of the year and shall be available for carrying out the purposes of the trust fund.

As required by the Florida Constitution, the trust fund is scheduled to terminate on July 1, 2025, unless terminated sooner. Additionally, the bill requires the trust fund to be reviewed as provided in s. 215.3206, F.S., before its scheduled termination.

The bill takes effect on the same date (July 1, 2021) that SB 48 or similar legislation takes effect, if such legislation is enacted in the same legislative session or an extension thereof and becomes a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Article III, s. 19(f)(1) of the Florida Constitution specifies that a trust fund may be created or re-created only by a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

Article III, s. 19(f)(2) of the Florida Constitution specifies that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund. By law the Legislature may set a shorter time period for which any trust fund is authorized

³ Section 215.3208, F.S.

⁴ FLA. CONST. art. III, s. 19.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 1010.88 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

B. Amendments:

None.