Education
Choice & Innovation

Committee Meeting
April 4, 2006

Meeting Packet

The Florida House of Representatives

Education Council

Choice & Innovation Committee

Allan G. Bense
Speaker

John Stargel
Chair

MEETING AGENDA

April 4, 2006
Morris Hall, 1:00-2:00 PM

I. Call to Order

II. Chairman's Remarks

III. Consideration of the following bill(s):

- **HB 967 CS by Glorioso -- Public K-12 Educational Instruction**

IV. Workshop on the Following:

- **Teacher Recruitment and Retention**

V. Consideration of the following proposed committee substitute(s):

- **PCS for HJR 1573 -- Equal Opportunity to Obtain a High Quality Education**

VI. Closing Comments

VII. Adjournment

209 House Office Building, 402 South Monroe Street, Tallahassee, Florida 32399-1300
(850) 410-4925

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 967 CS Public K-12 Educational Instruction
SPONSOR(S): Glorioso
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) PreK-12 Committee	6 Y, 2 N, w/CS	Hassell	Mizereck
2) Choice & Innovation Committee		Hassell	Kooi
3) Education Appropriations Committee			
4) Education Council			
5)			

SUMMARY ANALYSIS

School districts are currently required by law to provide instruction on a number of specific topics. House Bill 967 specifies in greater detail additional requirements for the instruction in certain U.S. history topics and specifies how often they must be taught. The bill also adds a requirement for instruction in the importance of free enterprise and amends requirements related to required instruction in comprehensive health education and character-development programs. The bill includes requirements for instructional materials, and requires the standards adopted by the State Board of Education (SBE) conform to the instruction as described in the bill.

The bill sets an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill places a detailed mandate on local school districts to include specific topics in their instruction on U.S. history.

Safeguard individual liberty – The bill is intended to inculcate in public school students a better understanding of the history and foundations of individual liberty.

B. EFFECT OF PROPOSED CHANGES:

Required Instruction in U.S. History

Section 1003.43(1)(d) requires successful completion of one credit in American history for high school graduation. In addition, school districts are required by law to provide appropriate instruction designed to ensure students meet the SBE adopted standards in specified subjects, including social studies. The current standards cover American history topics and requirements.

Section 1003.42, F.S. requires school districts to provide instruction in a number of specified topics, including:

- The Declaration of Independence,
- The United States Constitution, and
- The history of the state.

The bill requires U.S. history to be taught at two grade levels in elementary school, and at one grade level each in middle school and high school. The bill also specifies in greater detail the following additional requirements for the instruction in certain U.S. history topics:

- Instruction on the Declaration of Independence must address its history and must include the ideas of national sovereignty, natural law, self-evident truth, equality of all persons, limited government, popular sovereignty, and God-given, inalienable rights of life, liberty, and property.
- Instruction in the U.S. Constitution must include the history, meaning, significance and effect of its provisions, with emphasis on the Bill of Rights.
- Instruction in the history of the state must also include the history of the State Constitution.

The bill adds a requirement for instruction in U.S. history which must:

- Include the period of discovery, early colonies, the War for Independence, Reconstruction, the Civil War, the expansion of the U.S., the world wars, and the civil rights movement;
- Be taught in a factual manner based on genuine history.

Other Required Instruction

The bill requires that the materials used for required instruction meet the highest standards for professionalism and historic accuracy.

Comprehensive health education is currently required to address mental and emotional health. The bill removes the requirement for instruction in mental and emotional health.

The bill adds a new requirement of instruction in the nature and importance of free enterprise to the U.S. economy.

Character-development programs are currently required. The bill amends the requirements for the content of such programs. The bill deletes the requirement that such programs stress attentiveness, patience and initiative. The bill adds requirements that the programs stress:

- The Golden Rule,
- Respect for authority, human life, liberty, and personal property, and
- Racial, ethnic, and religious tolerance.

C. SECTION DIRECTORY:

Section 1. Amends s.1003.42, F.S., revising several provisions related to required instruction in public schools and requirements for teaching United States history.

Section 2. Amends s. 1003.43, F.S., requiring the study of the Declaration of Independence for high school graduation.

Section 3. Amends s. 1002.20, F.S., correcting a cross reference.

Section 4. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   This bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

   This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

None.

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 expenditure of funds.

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

This bill does not reduce the percentage of a state tax shared with counties and municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 28, 2006, the PreK-12 Committee adopted two amendments to House bill.

- Amendment One: The original bill required that SBE adopted "standards and assessments" conform to the instruction as described in the bill. This amendment deletes the word "assessments."
- Amendment Two: The original bill required instruction of United States history at two grade levels each in middle school and high school. This amendment reduces this requirement to one grade level each in middle school and high school.

This bill analysis reflects the bill as amended.

CHAMBER ACTION

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1 The PreK-12 Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to public K-12 educational instruction;
7 amending s. 1003.42, F.S.; revising provisions relating to
8 required instruction and courses of study in the public
9 schools; including study of the history of the United
10 States and free enterprise; requiring standards adopted by
11 the State Board of Education to conform to requirements
12 for instruction; providing requirements for teaching the
13 history of the United States at certain grade levels;
14 amending s. 1003.43, F.S., relating to general
15 requirements for high school graduation; including study
16 of the Declaration of Independence in the credit
17 requirement for American government; amending s. 1002.20,
18 F.S.; correcting a cross-reference; providing an effective
19 date.
20
21 Be It Enacted by the Legislature of the State of Florida:
22

23 Section 1. Section 1003.42, Florida Statutes, is amended
24 to read:
25 1003.42 Required instruction.--
26 (1) Each district school board shall provide all courses
27 required for high school graduation and appropriate instruction
28 designed to ensure that students meet State Board of Education
29 adopted standards in the following subject areas: reading and
30 other language arts, mathematics, science, social studies,
31 foreign languages, health and physical education, and the arts.
32 (2) All members of the instructional staff of the public
33 schools, subject to the rules of the State Board of Education
34 and the district school board, shall teach efficiently and
35 faithfully, using the books and materials required that meet the
36 highest standards for professionalism and historic accuracy,
37 following the prescribed courses of study, and employing
38 approved methods of instruction, the following:
39 (a) The history and content of the Declaration of
40 Independence as written, including national sovereignty, natural
41 law, self-evident truth, equality of all persons, limited
42 government, popular sovereignty, and God-given, inalienable
43 rights of life, liberty, and property, and how it forms the
44 philosophical foundation of our government.
45 (b) The history, meaning, significance, and effect of the
46 provisions of the Constitution of the United States and
47 amendments thereto with emphasis on each of the 10 amendments
48 that make up the Bill of Rights and how the constitution
49 provides the structure of our government.
50 (c) The history of the state and the State Constitution.

51 (d) ~~(b)~~ The most important arguments in support of adopting
52 our republican form of government, as they are embodied in the
53 most important of the Federalist Papers.
54 ~~(c) The essentials of the United States Constitution and~~
55 ~~how it provides the structure of our government.~~
56 (e) ~~(d)~~ Flag education, including proper flag display and
57 flag salute.
58 (f) ~~(e)~~ The elements of United States civil government,
59 including the primary functions of and interrelationships
60 between the Federal Government, the state, and its counties,
61 municipalities, school districts, and special districts.
62 (g) The history of the United States, including the period
63 of discovery, the early colonies, the War for Independence, the
64 Civil War, the expansion of the United States to its present
65 boundaries, the world wars, and the civil rights movement to the
66 present. The history of the United States shall be taught in a
67 factual manner based on genuine history.
68 (h) ~~(f)~~ The history of the Holocaust (1933-1945), the
69 systematic, planned annihilation of European Jews and other
70 groups by Nazi Germany, a watershed event in the history of
71 humanity, to be taught in a manner that leads to an
72 investigation of human behavior, an understanding of the
73 ramifications of prejudice, racism, and stereotyping, and an
74 examination of what it means to be a responsible and respectful
75 person, for the purposes of encouraging tolerance of diversity
76 in a pluralistic society and for nurturing and protecting
77 democratic values and institutions.

78 (i) ~~(g)~~ The history of African Americans, including the
79 history of African peoples before the political conflicts that
80 led to the development of slavery, the passage to America, the
81 enslavement experience, abolition, and the contributions of
82 African Americans to society.
83 (j) ~~(h)~~ The elementary principles of agriculture.
84 (k) ~~(i)~~ The true effects of all alcoholic and intoxicating
85 liquors and beverages and narcotics upon the human body and
86 mind.
87 (l) ~~(j)~~ Kindness to animals.
88 ~~(k) The history of the state.~~
89 (m) ~~(l)~~ The conservation of natural resources.
90 (n) ~~(m)~~ Comprehensive health education that addresses
91 concepts of community health; consumer health; environmental
92 health; family life, including an awareness of the benefits of
93 sexual abstinence as the expected standard and the consequences
94 of teenage pregnancy; ~~mental and emotional health;~~ injury
95 prevention and safety; nutrition; personal health; prevention
96 and control of disease; and substance use and abuse.
97 (o) ~~(n)~~ Such additional materials, subjects, courses, or
98 fields in such grades as are prescribed by law or by rules of
99 the State Board of Education and the district school board in
100 fulfilling the requirements of law.
101 (p) ~~(o)~~ The study of Hispanic contributions to the United
102 States.
103 (q) ~~(p)~~ The study of women's contributions to the United
104 States.

105 (r) The nature and importance of free enterprise to the
106 United States economy.
107 (s) ~~(q)~~ A character-development program in the elementary
108 schools, similar to Character First or Character Counts, which
109 is secular in nature ~~and stresses such character qualities as~~
110 ~~attentiveness, patience, and initiative~~. Beginning in school
111 year 2004-2005, the character-development program shall be
112 required in kindergarten through grade 12. Each district school
113 board shall develop or adopt a curriculum for the character-
114 development program that shall be submitted to the department
115 for approval. The character-development curriculum shall stress
116 the qualities of patriotism; ~~,~~ responsibility; ~~,~~ citizenship; the
117 Golden Rule; ~~,~~ kindness; ~~,~~ respect for authority, human life,
118 liberty, and personal property; ~~,~~ honesty; charity; ~~,~~ self-
119 control; ~~,~~ racial, ethnic, and religious tolerance; ~~,~~ and
120 cooperation.
121 (t) ~~(r)~~ In order to encourage patriotism, the sacrifices
122 that veterans have made in serving our country and protecting
123 democratic values worldwide. Such instruction must occur on or
124 before Veterans' Day and Memorial Day. Members of the
125 instructional staff are encouraged to use the assistance of
126 local veterans when practicable.
127
128 Standards adopted by the State Board of Education shall be based
129 on, and conform to, the requirements of this subsection.
130 (3) Each district school board shall require that United
131 States history, including the provisions of paragraphs (2)(a)-
132 (g), be taught in at least two grade levels in elementary

133 school, one grade level in middle school, and one grade level in
134 high school.
135 (4) ~~(3)~~ Any student whose parent makes written request to
136 the school principal shall be exempted from the teaching of
137 reproductive health or any disease, including HIV/AIDS, its
138 symptoms, development, and treatment. A student so exempted may
139 not be penalized by reason of that exemption. Course
140 descriptions for comprehensive health education shall not
141 interfere with the local determination of appropriate curriculum
142 which reflects local values and concerns.
143 Section 2. Paragraph (g) of subsection (1) of section
144 1003.43, Florida Statutes, is amended to read:
145 1003.43 General requirements for high school graduation.--
146 (1) Graduation requires successful completion of either a
147 minimum of 24 academic credits in grades 9 through 12 or an
148 International Baccalaureate curriculum. The 24 credits shall be
149 distributed as follows:
150 (g) One-half credit in American government, including
151 study of the Declaration of Independence and the Constitution of
152 the United States. For students entering the 9th grade in the
153 1997-1998 school year and thereafter, the study of Florida
154 government, including study of the State Constitution, the three
155 branches of state government, and municipal and county
156 government, shall be included as part of the required study of
157 American government.
158
159 District school boards may award a maximum of one-half credit in
160 social studies and one-half elective credit for student

161 completion of nonpaid voluntary community or school service
162 work. Students choosing this option must complete a minimum of
163 75 hours of service in order to earn the one-half credit in
164 either category of instruction. Credit may not be earned for
165 service provided as a result of court action. District school
166 boards that approve the award of credit for student volunteer
167 service shall develop guidelines regarding the award of the
168 credit, and school principals are responsible for approving
169 specific volunteer activities. A course designated in the Course
170 Code Directory as grade 9 through grade 12 that is taken below
171 the 9th grade may be used to satisfy high school graduation
172 requirements or Florida Academic Scholars award requirements as
173 specified in a district school board's student progression plan.
174 A student shall be granted credit toward meeting the
175 requirements of this subsection for equivalent courses, as
176 identified pursuant to s. 1007.271(6), taken through dual
177 enrollment.
178 Section 3. Paragraph (d) of subsection (3) of section
179 1002.20, Florida Statutes, is amended to read:
180 1002.20 K-12 student and parent rights.--Parents of public
181 school students must receive accurate and timely information
182 regarding their child's academic progress and must be informed
183 of ways they can help their child to succeed in school. K-12
184 students and their parents are afforded numerous statutory
185 rights including, but not limited to, the following:
186 (3) HEALTH ISSUES.--
187 (d) Reproductive health and disease education.--A public
188 school student whose parent makes written request to the school

189 principal shall be exempted from the teaching of reproductive
190 health or any disease, including HIV/AIDS, in accordance with
191 the provisions of s. 1003.42(4) ~~(3)~~.
192 Section 4. This act shall take effect July 1, 2006.

PCS for HJR 1573

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HJR 1573 Equal Opportunity to Obtain a High Quality Education
SPONSOR(S): Choice & Innovation Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Choice & Innovation Committee		Hassell	Kooi
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

This proposed committee substitute proposes a joint resolution to create a new section in art. IX, or the Education article, of the Florida Constitution. The resolution states that every child deserves an equal opportunity to obtain a high quality education and would apply to education programs for students in prekindergarten through college.

The resolution would require that for kindergarten through grade 12, school districts must spend at least 65 percent of school funds on classroom instruction instead of administration. The amendment would also authorize the Legislature to create and expend public funds on education programs, regardless of whether some of those funds are directed to non-public providers or to participants that are religiously affiliated. This provision is directed toward the Florida Supreme Court's invalidation of the Opportunity Scholarship Program based upon the Education article and the First District Court of Appeals' invalidation of the program based upon the s. 3, art. I, or the no-aid provision, of the Florida Constitution.

This joint resolution creates section 8, Article IX, of the Florida Constitution.

This is a joint resolution which requires passage by 3/5 vote of each chamber.

The Division of Elections with the Department of State estimates that the non-recurring cost of compliance with the publication requirements would be approximately $50,000 in 2006-2007 fiscal year. There would also be a positive, but indeterminate impact on state expenditures. See FISCAL COMMENTS.

If the joint resolution is passed in the 2006 Legislative session, the proposed amendment would be placed before the electorate at the 2006 general election, and if adopted will take effect January 2, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The joint resolution would authorize enhanced options for an equal opportunity to obtain a high quality education for every child from prekindergarten through college, as provided by law.

Safeguard individual liberty- The joint resolution would authorize enhanced options for an equal opportunity to obtain a high quality education for every child from prekindergarten through college, as provided by law.

Empower families- The joint resolution would authorize enhanced options for an equal opportunity to obtain a high quality education for every child from prekindergarten through college, as provided by law.

B. EFFECT OF PROPOSED CHANGES:

CONSTITUTIONAL AMENDMENT

Background

Florida's Free Public Schools Provision

As revised in 1998, Article IX, section 1(a) of the Florida Constitution states in pertinent part:

> The education of children is a fundamental value of the people of the State of Florida. It is, therefore, a paramount duty of the state to make adequate provision for the education of all children residing within its borders. Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.

The revisions made to article IX, section 1, affirmed the understanding that education is and will continue to be a "fundamental value" and "a paramount duty of the state." The sole purpose of the Constitution Revision Commission's revision to article IX was "to increase the state's constitutional duty by raising the constitutional standard for adequate education, making the standard high quality."[1] There was no mention, at the time, of an intent to make public schools the exclusive manner by which the Legislature could make provision for educating children. In fact, a proposal to preclude educational vouchers was presented to the Commission by the public, but never accepted.[2]

Opportunity Scholarship Program

Following the Constitutional revision of 1998, the Legislature enacted the Opportunity Scholarship Program (OSP) as part of the A+ Education Plan in 1999,[3] based on a finding that a public school student should not be compelled to remain in a school deemed by the state to be failing for a minimum

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[1] Jon Mills and Timothy McLendon, *Setting a New Standard for Public Education: Revision 6 Increases the Duty of the State to Make "Adequate Provision" for Florida Schools,* 52 Fla. L. Rev. 329, 331 (2000).
[2] *Id.*
[3] ch. 99-398, Laws of Fla.

of two years during a four- year period.[4] The OSP was designed to provide the parents of a student attending, or assigned to attend, a failing school with the opportunity to send their child to a satisfactorily performing public school, or to an *eligible* private school of their choice. The program also provides students entering kindergarten or the first grade of a failing school with the same opportunity to choose an alternate public or private school.[5]

All private schools have the option to participate in the OSP so long as the schools meet the criteria set forth in statute and have registered to participate with the Department of Education (DOE).[6] The DOE is responsible for verifying the student's initial admission acceptance and continued enrollment and attendance in the chosen private school. After DOE provides proper documentation, the Chief Financial Officer makes four equal installments, known as warrants, payable to the student's parent. The warrant is mailed by the DOE to the chosen private school and the student's parent is then required to restrictively endorse the warrants to the private schools for receipt of the OSP funds.[7]

Participation of students and private schools has steadily increased as additional public schools have been deemed failing.[8] Currently, there are 733 students attending 53 private schools. Of the private schools participating in the OSP, 71.7 percent are sectarian, and 55.3 percent of the OSP students utilizing opportunity scholarships are attending those sectarian schools. The majority of private schools accepting OSP students have fewer than 10 students utilizing opportunity scholarships.[9] There are a few private schools in the Miami-Dade and Palm Beach County school districts, however, with larger numbers of scholarship students.

Bush v. Holmes I

The OSP has been the subject of a constitutional challenge since it was implemented in 1999. In 2000, the trial court held that OSP violates the free public schools provision of article IX, section 1, of the state Constitution.[10] On appeal, however, the First District Court of Appeal reversed the lower court's ruling and found that "nothing in article IX, section 1 clearly prohibits the Legislature from allowing the well-delineated use of public funds for private school education, particularly in circumstances where the Legislature finds such use necessary."[11] The appellate court declined to address the other constitutional issues raised, and remanded the case to the trial court for further proceedings.[12] The Florida Supreme Court denied discretionary review.[13]

Bush v. Holmes II - First DCA opinion

The trial court, on remand, held that OSP violated the no-aid provision of article I, section 3 of the Florida Constitution.[14] Article 1, section 3 of the Florida Constitution states in pertinent part:

> No revenue of the state or any political subdivision or agency thereof shall ever be taken from the public treasury directly or indirectly in aid of any church, sect,

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[4] Section 1002.38(1), F.S., provides that a failing school is a school that has received grade of "F" for two years in a four-year period.
[5] Section 1002.38(2) F.S., provides for student eligibility.
[6] Section 1002.38(4), F.S., provides eligibility requirements.
[7] Section 1002.38(6), F.S., provides methodology for funding and payment.
[8] Preliminary numbers for the 2005-2006 school year, however, show that there are 30 fewer students attending private schools on opportunity scholarships than the previous year.
[9] Based upon numbers provided by the Department of Education (DOE) for September 2005 voucher payments.
[10] *Bush v. Holmes et al.,* 767 So. 2d 668, 674 (Fla. 1st DCA 2000). The trial court applied the canon of construction *expression unius est exclusion alterius.*
[11] *Id.* at 675.
[12] *Id.* at 677.
[13] *See Holmes v. Bush,* 790 So. 2d 1104 (Fla. 2001).
[14] *Bush. v. Holmes*, 886 So. 2d 345 (Fla. 1st DCA 2004) (hereinafter *Holmes* II). The plaintiffs voluntarily dismissed their claims under the federal Establishment Clause and the school fund provision of Article IX, section 6, of the Florida constitution.

or religious denomination or in aid of any sectarian institution.

While the case was pending on remand, the U.S. Supreme Court upheld a program similar to the OSP. In *Zelman v. Simmons-Harris,* the Court held that the Ohio Pilot Project Scholarship Program was constitutional under the federal Establishment Clause.[15] The federal clause provides that "Congress shall make no law respecting an establishment of religion...."[16] Subsequently, the challengers to the OSP voluntarily dismissed their claims under the federal Establishment Clause and "the school fund provision" of the Florida Constitution.[17] The only remaining issue for the trial court to decide was whether the OSP violated the no-aid provision of the Florida Constitution.[18]

On appeal, a divided en banc panel of the First District Court of Appeal upheld the trial court's ruling that the OSP violates article I, section 3, of the Florida Constitution.[19] In so holding, the Court cited concerns over the fact that state revenues were being used to fund the scholarships, that the "direct or indirect" language in the constitution was a broad prohibition on the use of state revenues, and that the prohibition included many of the schools receiving the scholarships due to their religious affiliation.[20] The appellate court certified to the Florida Supreme Court the following question: "Does the Florida Opportunity Scholarship Program, section 229.0537, Florida Statutes (1999), violate article I, section 3 [the no-aid provision] of the Florida Constitution?"[21]

As noted above, the no-aid provision was the only constitutional ground upon which the trial and district courts based their opinions when *Bush v. Holmes* was heard a second time. Because the U.S. Supreme Court in *Zelman* held that a program similar to the OSP does not violate the federal Establishment Clause, the district court's majority opinion concentrated on how Florida's no-aid provision is more restrictive than the federal clause. The district court held that while the first sentence of Florida's provision is synonymous with the federal clause, the additional language of the state's no-aid provision expands restrictions on aid to religion by specifically prohibiting the expenditure of public funds "directly or indirectly" to aid sectarian institutions.[22]

The district court invalidated the OSP to the extent that it authorizes state funds to eventually reach sectarian schools.[23] The court went on to invalidate the entire statute because it could not find that the Legislature would have intended for provisions of the statute to be severable *or* that the Legislature would have adopted the OSP without the intent that vouchers would be used at private sectarian schools.[24]

Bush v. Holmes II – Supreme Court majority opinion

After granting certification, the court held that the OSP violates the free public school provision's requirement that adequate provision be made for a "uniform, efficient, safe, secure, and high quality system of free public schools."[25] The court found that the provision acted as a "limitation on the

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[15] See 536 U.S. 639 (2002). The Ohio program allowed parents of Cleveland schoolchildren to receive a tuition voucher redeemable either in participating Cleveland private schools or public schools in adjacent districts.
[16] U.S. CONST. amend I.
[17] Article IX, section 6, Fla Const.
[18] *Holmes II,* 886 So. 2d at 345.
[19] *Id.* at 340.
[20] *Id.* at 352-354.
[21] *Id.* at 367. Judge Benton wrote the majority opinion which was joined by seven other judges. He also wrote a separate opinion finding that OSP violated article 9, section 1, which was joined by only four out of the fourteen judges on the panel. Section 229.0537 F.S., cited by the court, was renumbered as a result of chapter 2002-387, Laws of Florida, and is now Section 1002.38, F.S.
[22] *Id.* at 344.
[23] *Id.* at 352.
[24] *Id.* at 346, FN 4. In an opinion concurring in part and dissenting in part, Judge Wolf would have upheld the provision allowing students to utilize vouchers at non-sectarian private schools (*id.* at 371).
[25] *Holmes v. Bush,* 919 So. 2d at 410. The court also noted that article IX, section 6, or the state school fund provision, limiting disbursement of funds to the "support and maintenance of free public schools," reinforced its opinion invalidating the OSP.

Legislature's power because it provides both a mandate to provide for children's education and a restriction on the execution of that mandate."[26] The court reasoned that the sentences comprising the free public schools provision must be read together.[27] The sentence mandating that "adequate provision" for public education be made must be read in conjunction with the successive sentence prescribing the manner for carrying out that mandate. Following the first trial court's reasoning, the Supreme Court found that the two sentences read together create an implied prohibition against the Legislature providing state funds for any means of education other than the public school system.[28]

Applying the doctrine of *expressio unius est exclusio alterius*, meaning the expression or inclusion of one thing implies the exclusion of alternatives, the Court read the constitutional directive to the state to provide for a "uniform, efficient, safe, secure, and high quality system of free public schools..." to prohibit any other program in addition to the uniform system of free public schools that is currently provided.[29]

The court also expressed concern that the private schools that students attend on opportunity scholarships are "not subject to the *uniformity* requirements of the public school system," mentioned in the constitution.[30] Though OSP students must take statewide assessment tests, the court noted that a private schools' curriculum and teachers are not subject to the same standards or supervision applied to public schools.[31] Without state regulation, the court opined, private school curriculum standards may vary greatly depending on the accrediting body.[32] Based upon this reasoning, the court found the alternative system of private schools receiving funding through the OSP did not meet the uniformity requirement.

The Court concluded its opinion by declining to address the no-aid provision in their opinion but stated that the Court "...neither approve[s] or disapprove[s] the First District's determination that the OSP violates the "no-aid" provision in Article 1, section 3 of the Florida Constitution...."[33]

Bush v. Holmes II – Supreme Court dissenting opinion

The dissent responded that the constitutional provision at issue was clear and unambiguous and that it should be given its plain and obvious meaning. Accordingly, there was no reason to resort to canons of statutory interpretation and construction in construing the intent of the provision.[34]

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[26] *Id.* at 406.
[27] *Id.* at 406-407 (employing the principal of statutory construction *in pari materia,* which means the provisions are to be construed together to ascertain the general meaning).
[28] *Id.* See *supra* note 11, at 2, for discussion of the statutory construction *expressio unius est exlusio alterius.*
[29] *Id.* at 406-407.
[30] *Id.* at 412. (emphasis added)
[31] *Id.* at 409-410.
[32] *Id.* at 410.
[33] *Id.* at 413.
[34] *See Holmes II,* 919 So. 2d 392, 420 (Bell, J. dissenting). The dissent recognized the significant expansion of the Court's authority through the use of *expressio unius* to interpret the free public schools provision and cited to the fact that courts nationwide generally agree that it is a maxim of statutory construction that should rarely, if ever, be used in construing the state constitution, and then, only with great caution. (Citing State ex rel. Jackman v. Court of Common Pleas of Cuyahoga County, 224 N.E. 2d 906, 910 (Ohio 1967) (recognizing that the *expressio unius* maxim should be applied with caution to constitutional provisions ... relating to the legislative branch of government, since [the maxim] cannot be made to restrict the plenary power of the legislature") (citing 16 C.J.S. *Constitutional Law* § 69 (2005) (stating "the maxim 'expressio unius est exclusion alterius' does not apply with the same force to a constitution as to a statute ..., and it should be used sparingly"); Reale v. Bd. of Real Estate Appraisers, 880 P.2d 1205, 1213 (Colo. 1994) (declaring that the *expressio unius* maxim is "inapt" when used to imply a limitation in a state constitution because the "powers not specifically limited [in the constitution] are presumptively retained by the people's representatives."); Penrod v. Crowley, 356 P.2d 73, 80 (Idaho 1960) (stating that *expressio unius* does not apply when interpreting the provisions of the state constitution.); Baker v. Martin, 410 S.E.2d 887, 891 (N.C. 1991) (stating that *expressio unius* has never been applied to interpret the state constitution because the maxim "flies in the face" of the principle that "[a]ll power which is not *expressly limited* ... in our State Constitution remains with the people, and an act of the people through their representatives in the legislature is valid unless prohibited by that Constitution.")

The dissent noted that unlike the federal constitution, the state constitution is a limitation upon the power of government rather than a grant of that power.[35] As such, the courts are without authority to invalidate the legislative enactment "unless it is clearly contrary to an express or necessarily implied prohibition within the constitution."[36]

The dissent pointed out that nothing in the text of article IX, section 1 clearly prohibits or necessarily implies the prohibition of the use of funds to provide other educational opportunities outside of the uniform system required by the provision. The text is devoid of language indicating an exclusive intent in that it does not state that "the government's provision for education shall be "by" or "through" a system of free public schools." It does require adequate provision "for" a system of free public schools which would not preclude additional programs. The dissent argued that "without language of exclusion or preclusion, there is no support for the majority's finding that public schools are the exclusive means by or through which the government may fulfill its duty to make adequate provision for the education of every child in Florida."[37] Consequently, the Court was without authority to declare OSP unconstitutional.[38]

Effect on Other Educational Choice Programs

The Supreme Court's opinion invalidating the OSP provided that the ruling is to apply prospectively at the end of the current school year to avoid disrupting the education of the scholarship students.[39] Similar to the district court's opinion, which sought to limit its application to the OSP, the Supreme Court attempted to limit its ruling, stating that the effect of its decision on other programs would be speculation.[40] The Court specifically noted, however, that prekindergarten, community colleges, adult education, and general welfare programs are not implicated by this decision.[41]

Nevertheless, despite the tenor of the court's ruling, there are other educational programs that could still be open to challenge under *either* the Supreme Court's ruling on the free public schools provision *or* the district court of appeal's ruling on the no-aid provision.[42]

John M. McKay Scholarship Program

In the 1999-2000 school year, the John M. McKay Scholarships for Students with Disabilities Program (McKay) was a pilot program in which two students chose to utilize a McKay scholarship to attend a school of their choice. Just six years later the popularity of the program has soared as 16,812 students chose to utilize a McKay scholarship in the 2005-2006 school year to attend a school of their choice.

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[35] *Id.* at 414, citing *Chiles v. Phelps,* 714 So.2d 453, 458 (Fla.1998) (citing *Savage v. Board of Public Instruction,* 101 Fla. 1362, 133 So. 341, 344 (1931), for the proposition that "[t]he Constitution of this state is not a grant of power to the Legislature, but a limitation only upon legislative power, and unless legislation be clearly contrary to some express or necessarily implied prohibition found in the Constitution, the courts are without authority to declare legislative [a]cts invalid" and recognizing that "[t]he legislature's power is inherent, though it may be limited by the constitution"); *see also State ex rel. Green v. Pearson,* 153 Fla. 314, 14 So.2d 565, 567 (1943) ("It is a familiarly accepted doctrine of constitutional law that the power of the Legislature is inherent.... The legislative branch looks to the Constitution not for sources of power but for limitations upon power.").

[36] *Id.,* citing *Chapman v. Reddick,* 41 Fla. 120, 25 So. 673, 677 (1899) ("[U]nless legislation duly passed be clearly contrary to some express or implied prohibition contained [in the constitution], the courts have no authority to pronounce it invalid.").

[37] *Id.* at 416.

[38] *Id.* at 413.

[39] *Id.*

[40] *Id.*

[41] *Id.* The Court found that these programs were not implicated because pre-kindergarten is addressed separately in the free public schools section and does not have a requirement that it be provided by particular means; community colleges and adult general education programs are not within the general conception of free public schools or institutions of higher learning; and many of the other private welfare programs are not affected by the constitutional provision upon which this opinion is based – article IX.

[42] Given that the First DCA is the only court to address the no-aid provision and its effect on a program such as OSP, it is binding statewide unless and until the Supreme Court addresses the issue. See *Stanfill v. State,* 384 So. 2d 141, 143 (Fla. 1980).

The McKay program allows parents of students with disabilities whose parent is "dissatisfied with the student's progress" at the child's assigned public school to choose the best academic environment for their child.[43] The McKay program is similarly structured to the OSP to the extent that parents of eligible students may choose from any private school, religious or non-religious, so long as the school meets the criteria set forth in statute.[44] Also, the manner in which McKay scholarship funds are distributed is similar to that of the OSP.[45]

Corporate Tax Credit Scholarship Program

The Corporate Tax Credit Scholarship Program (CTC) was established by the 2001 Legislature to provide an income tax credit for corporations that contribute money to nonprofit scholarship-funding organizations (SFO) that award scholarships to students within the state who qualify for free or reduced-price school lunches under the National School Lunch Program.[46] The corporations receive a dollar for dollar tax credit for these donations.

The CTC Program is similar to the OSP to the extent parents may choose any private school so long as the school meets the criteria set forth in statute.[47] However, there are differences in the way the CTC program is funded that may be significant with regard to potential constitutional challenges.

Unlike OSP, the CTC scholarships are funded solely through private donations. Although the donors receive a dollar for dollar tax credit for the donations, the money never becomes part of the state treasury and therefore, cannot be considered a government appropriation of funds. For example, in *Johnson v. Presbyterian Homes of Synod of Florida, Inc.,* the Florida Supreme Court held that a tax exemption for a property owned by the Presbyterian Synod of Florida "did not involve a disbursement from the public treasury." [48]

Likewise, tax credits similar to those provided in the CTC program have been found not to be violative of a constitutional provision similar to the language in article I, section 3, due to the fact that they do not involve a government appropriation of funds.[49] Nevertheless, there is no Florida case squarely on point involving a tax credit.

In the 2005-2006 school year, 14,084 students chose to utilize a CTC scholarship to attend a school of their choice, with approximately 82% of the students choosing to attend a sectarian school.[50] Of the 14,084 scholarship students 41.9% are African American, 23.1% are White, non-Hispanic and 22.1% are Hispanic.[51]

Voluntary Prekindergarten Education Program

In 2002, the electors of Florida approved Amendment No. 8 to the state Constitution.[52] The Amendment required the Legislature to establish a new early childhood development and education program for every four-year-old child in the state by the 2005 school year. The 2004 Legislature created the Voluntary Prekindergarten Education Program (VPK), which allows a parent to enroll his or her child in a voluntary, free prekindergarten program offered during the year before the child is eligible for admission to kindergarten.

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[43] Section 1002.39(2), F.S.
[44] Section 1002.39(4), F.S.
[45] Section 1002.39(6), F. S. Approximately 47.8% of the 16,812 students chose to attend a religiously affiliated school.
[46] Chapter 2001-225, L.O.F.; section 220.187(2)(e), F. S., defines qualified student.
[47] Section 220.187(6), F. S., provides for eligible nonpublic school obligations.
[48] 239 So. 2d 256 (Fla. 1970).
[49] *Kotterman v. Killian,* 972 P. 2d 606, 612-613, 620 (Ariz. 1999).
[50] Florida Department of Education, Corporate Tax Credit Scholarship Program February Quarterly Report 2006.
[51] *Id.*
[52] Article IX, section 1(b), Fla. Const.

The program allows public and non-public schools that educate four year- olds to receive funding from the state. However, apart from allowing religiously affiliated providers, the eligibility criteria for program providers are dissimilar to the OSP and McKay provider requirements.[53] As of January 31, 2006, there are 93,681 children enrolled in the VPK program of which 13,227 children are being served by faith based providers.[54] While the VPK program was expressly distinguished from OSP by the Florida Supreme Court majority, it remains vulnerable under the standing First DCA opinion.

Other Programs Potentially Affected

In addition to the McKay and VPK programs, the following list of State Funded Financial Aid Programs provides an account of how many students may be affected by the First District of Appeal's reasoning in that they are attending an institution with a religious affiliation and received financial aid in the 2004-2005 fiscal year.[55]

- The Bright Futures Scholarship Program is a lottery-funded scholarship program created by the 1997 Legislature to reward high school graduates who merit recognition of high academic achievement and enroll in a degree program, certificate program, or applied technology program at an eligible public or private Florida postsecondary institution.[56] 3,647 of the 130,597 Bright Futures Scholarship recipients attended an institution with a religious affiliation.
- The Florida Residence Access Grant (FRAG) is a tuition assistance program for students registered at eligible independent, nonprofit colleges or universities in Florida.[57] 16,275 of the 35,502 FRAG recipients attended an institution with a religious affiliation.
- The Florida Student Assistance Grant (FSAG) Program consists of three state-funded financial assistance programs that are available to undergraduate students who demonstrate financial need.[58] 6,637 of the 11,896 Florida Private Student Assistance Grant (FSAG-PR) recipients and 133 of the 10,745 of the Florida Postsecondary Student Assistance Grant (FSAG-PO) recipients attended an institution with a religious affiliation.
- The Mary McLeod Bethune Scholarship (MMB) Program provides matching grants for private sources that raise money for scholarships to be awarded to students who attend Florida Agricultural and Mechanical University, Bethune-Cookman College, Edward Waters College, or Florida Memorial College.[59] 223 of the 262 MMB recipients attended an institution with a religious affiliation.

Classroom Instruction Expenditure

The joint resolution would require that all districts spend no less than 65 cents out of every dollar received in the classroom than on administration costs. Classroom instruction and administration shall be defined by law. According to the National Center for Education Statistics (NCES), the average percentage of such expenditures within Florida's 67 school districts during the 2003-2004 school year was 59.19%.[60]

Effects of Proposed Changes

The joint resolution proposes to offer to the voters of Florida a new section of Article IX of the Florida Constitution that requires school funding to be prioritized toward classroom instruction and provides the

[53] Sections 1002.71 and 1002.55, F.S.
[54] The Agency for Workforce Innovation
[55] Florida Department of Education Office of Student Financial Assistance
[56] Sections 1009.53 and 1009.5333, F.S.
[57] Section 1009.89, F.S. and Rule 6A-20.007, F.A.C.
[58] Sections 1009.50 - 1009.52, F.S. and Rules 6A-20.031 – 6A-20.033, F.A.C.
[59] Section 1009.73, F.S. and Rule 6A-20.029, F.A.C.
[60] This figure was determined through data provided by the Florida Department of Education and has not been finalized by NCES.

Legislature with the authority to enact and publicly fund educational programs, for the purpose of providing every child in the state with the opportunity to receive a high quality education.

Prioritizing Public School Funds to the Classroom

By Constitutional mandate, the Legislature has the duty to make adequate provision for the education of all children in the state of Florida.[61] The joint resolution states that in order to make such adequate provision for high quality public K-12 education, school districts must spend at least 65% of their funding on classroom instruction, rather than administration.

It also provides that the Legislature will define classroom instruction and administration in statute. Accordingly, should the resolution be approved by the electors in the November 2006 election, implementing legislation would determine the details of what constitutes classroom instruction and administrative expenditures.

As a result of the resolution, school districts will be required to focus their attention on how much of their educational funds are being spent in the classroom and prioritize their use of funds so that public school funding can be targeted to areas that will produce increased student performance.

Providing for Options that Include Non-Public Schools

The joint resolution also addresses the Legislature's authority to enact and fund public or non-public prekindergarten through college educational programs that provide options that include non-public schools.

This provision clearly addresses the constitutional viability of the McKay and CTC scholarship programs under Article IX, section 1 by specifically referencing students with disabilities and those who are economically disadvantaged. It also protects the VPK program, which is available to all 4 year-old children without regard to family income or disability, by clarifying the Legislature's authority to provide choice to any child whose parents request alternatives to traditional public education programs.

The joint resolution also clarifies the Legislature's authority to provide for and fund educational programs that allow for the participation of religious and non-religious individuals and non-public providers. This provision protects the McKay, VPK, Bright Futures, FRAG, FSAG, MMB and any other programs that might involve participation by religiously affiliated providers from challenge based upon the ruling by the First District Court of Appeal regarding Article I, section 3.

The joint resolution does not absolve the Legislature from funding the system of free public schools required by the Florida Constitution.[62] In contrast, it simply provides that the Legislature is not limited to one particular system, nor is it required to exclude the participation of religiously affiliated providers in its efforts to meet the mandate of providing high quality education to the citizens of Florida. Consequently, the joint resolution will preserve the ability of 16,812 McKay Scholarship students, 14,084 Corporate Tax Credit Scholarship students, 13,227 Voluntary Prekindergarten students, and 26,915 postsecondary education students to attend a non-public school of their choice, as provided by law.

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[61] Article IX, s. 1(a), Fla. Const.
[62] *Id.*

REVISION OR AMENDMENT TO THE STATE CONSTITUTION

Background

Amendments to Florida's Constitution can be proposed by five distinct methods: 1) joint legislative resolution, 2) the Constitutional Revision Commission, 3) citizen's initiative, 4) a constitutional convention, or 5) the Taxation and Budget Reform Commission.[63]

Depending on the method, all proposed amendments or revisions to the Constitution must be submitted to the electors at the next general election 1) held more than ninety days after the joint resolution, 2) 180 days after the report of the Constitutional Revision Commission or Taxation Budget Reform Commission, or 3) for citizen initiatives, if all the required signatures were submitted prior to February 1 of the year in which the general election is to be held.[64]

Article XI, s.1, of the Florida Constitution provides for proposed changes to the Constitution originating with the Legislature:

> SECTION 1: **Proposal by legislature.** – Amendment of a section or revision of one or more articles, or the whole, of this constitution may be proposed by joint resolution agreed to by three-fifths of the membership of each house of the legislature. The full text of the joint resolution and the vote of each member voting shall be entered on the journal of each house.

Once in the tenth week, and once in the sixth week immediately preceding the week in which the election is held, the proposed amendment or revision, with notice of the date of election at which it will be submitted to the electors, must be published in one newspaper of general circulation in each county in which a newspaper is published.[65] If the joint resolution is passed in this session, the proposed amendment would be placed before the electorate at the 2006 general election, unless it is submitted at an earlier special election pursuant to a law enacted by an affirmative vote of three-fourths of the membership of each house of the Legislature and is limited to a single amendment or revision.[66]

The Florida Constitution provides that if the proposed amendment or revision is approved by the vote of electors, it is effective as an amendment to or revision of the Constitution of the state on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.[67]

Effects of Proposed Changes

This joint resolution proposes to create a new section of Article XI of the Florida Constitution, the Education Article. If the joint resolution is passed in this session, the proposed amendment would be placed before the electorate at the 2006 general election, and if adopted will take effect January 2, 2007.

C. SECTION DIRECTORY:

The legislation is a joint resolution proposing a constitutional amendment and, therefore, does not contain bill sections. The joint resolution proposes to create a new section of Article IX of the Florida Constitution, the Education Article.

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[63] *See* Art. XI, ss. 1-4, and 6, Fla. Const.
[64] *See* Art. XI, ss 2, 5, and 6, Fla. Const.
[65] *See* Art. XI, s. 5(c), Fla. Const.
[66] *See* Art. XI, s.5(a), Fla. Const.
[67] *See* Art. XI, s.5(e), Fla. Const.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The joint resolution does not appear to have a fiscal impact on state revenues.

2. Expenditures:

   Revision of State Constitution

   The Division of Elections with the Department of State estimates that the non-recurring cost of compliance with the publication requirements would be approximately $50,000 in 2006-2007 fiscal year.

Non-Recurring	**FY 2006-07**
Department of State, Division of Elections	
Publication Costs	$50,000 (General Revenue)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The joint resolution does not appear to have any impact on local government revenues.

2. Expenditures:

   The joint resolution does not appear to have any impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The joint resolution would likely have a positive, but indeterminate fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The municipality/county mandates provision relates only to general bills and therefore would not apply to this joint resolution.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The joint resolution does not raise the need for rules or rulemaking authority or direct an agency to adopt rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This is a joint resolution which requires passage by a 3/5 vote of each chamber.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

CHAMBER ACTION

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1 The Choice & Innovation Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 House Joint Resolution
6 A joint resolution proposing the creation of Section 8 of
7 Article IX of the State Constitution relating to
8 education.
9
10 Be It Resolved by the Legislature of the State of Florida:
11
12 That the following creation of Section 8 of Article IX of
13 the State Constitution is agreed to and shall be submitted to
14 the electors of this state for approval or rejection at the next
15 general election or at an earlier special election specifically
16 authorized by law for that purpose:
17 ARTICLE IX
18 EDUCATION
19 SECTION 8. Equal opportunity to obtain a high quality
20 education.--Every child deserves an equal opportunity to obtain
21 a high quality education, regardless of his or her family's
22 income, religion, or race.

23 (a) Funding for a high quality public K-12 education
24 through classroom instruction is fundamental. To make adequate
25 provision for a high quality public K-12 education, at least
26 sixty-five percent of school funding received by school
27 districts shall be spent on classroom instruction, rather than
28 administration. Classroom instruction and administration shall
29 be defined by law.
30 (b) Students in prekindergarten through college who have
31 disabilities, are economically disadvantaged, or whose parents
32 request alternatives to traditional public education programs
33 may participate, as provided by law, in education programs that
34 include non-public schools. The legislature may enact and
35 publicly fund prekindergarten through college education
36 programs, without regard to the religious nature of any
37 participant or non-public provider, notwithstanding any other
38 provision of this Article or Section 3 of Article I of this
39 constitution.
40 BE IT FURTHER RESOLVED that the following statement be
41 placed on the ballot:
42 CONSTITUTIONAL AMENDMENT
43 ARTICLE IX, SECTION 8
44 EQUAL OPPORTUNITY TO OBTAIN A HIGH QUALITY
45 EDUCATION.--Proposing an amendment to the State Constitution to
46 provide that every child deserves an equal opportunity to obtain
47 a high quality education, regardless of his or her family's
48 income, religion, or race; to provide that funding for high
49 quality public K-12 education through classroom instruction is
50 fundamental; to provide that to make adequate provision for a

51 high quality public K-12 education, at least sixty-five percent
52 of school funding received by school districts shall be spent on
53 classroom instruction rather than administration; to provide
54 that classroom instruction and administration shall be defined
55 by law; to provide that students in prekindergarten through
56 college who have disabilities, are economically disadvantaged,
57 or whose parents request alternatives to traditional public
58 education programs may participate, as provided by law, in
59 education programs that include non-public schools; and to
60 provide that the Legislature may enact and publicly fund
61 prekindergarten through college education programs, without
62 regard to the religious nature of any participant or non-public
63 provider, notwithstanding any other provision of this Article or
64 of Section 3 of Article I of the State Constitution.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 01

Bill No. **PCS for HJR 1573**

COUNCIL/COMMITTEE ACTION

ADOPTED __ (Y/N)

ADOPTED AS AMENDED __ (Y/N)

ADOPTED W/O OBJECTION __ (Y/N)

FAILED TO ADOPT __ (Y/N)

WITHDRAWN __ (Y/N)

OTHER ____

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1 Council/Committee hearing bill: Choice & Innovation Committee
2 Representative(s) Rubio offered the following:
3
4 **Amendment (with ballot statement and title amendments)**
5 Remove line 39 and insert:
6 constitution.
7
8 Nothing in this section establishes a right to an education
9 program not provided by law.
10
11 ======= B A L L O T S T A T E M E N T A M E N D M E N T ======
12 Remove line(s) 59-64 and insert:
13 education programs that include non-public schools; to provide
14 to provide that the Legislature may enact and publicly fund
15 prekindergarten through college education programs, without
16 regard to the religious nature of any participant or non-public
17 provider, notwithstanding any other provision of this Article or
18 of Section 3 of Article I of the State Constitution; and to
19 provide that nothing in this amendment to the State Constitution
20 establishes a right to an education program that is not provided
21 by law.