

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 423 Higher Education

**SPONSOR(S):** Education Committee; Post-Secondary Education Subcommittee and Rodrigues

**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 4

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Post-Secondary Education Subcommittee	12 Y, 1 N, As CS	Bishop	Bishop
2) Higher Education Appropriations Subcommittee	13 Y, 0 N	Crowley	Lloyd
3) Education Committee	18 Y, 1 N, As CS	Bishop	Hassell

### SUMMARY ANALYSIS

The bill establishes the “Excellence in Higher Education Act of 2018”. Specifically, the bill:

- Directs each university board of trustees, by June 1, 2018, to submit to the BOG a comprehensive plan to improve the 4-year graduation rate of undergraduate students for implementation beginning in the fall 2018 academic semester.
- Revises excellence standards for the Preeminent State Research Universities Program.
- Creates the “Campus Free Expression Act” which prohibits public higher education institutions from restricting expressive activities and provides a cause of action for declaratory and injunctive relief, including reasonable court costs and attorneys fees, if a person’s expressive rights are violated.
- Revises requirements for state university direct-support organizations.
- Establishes the World Class Faculty and Scholar Program to support the efforts of state universities to recruit and retain exemplary faculty and research scholars.
- Establishes the State University Professional and Graduate Degree Excellence Program to enhance the quality and excellence of state university programs in medicine, law, and business.
- Expands the Florida Bright Futures Academic Scholars award to cover 100 percent of tuition and specified fees plus \$300 per fall and spring semester for textbooks and college-related expenses and the Florida Bright Futures Medallion Scholars award to cover 75 percent of tuition and fees.
- Authorizes the use of the Bright Futures Scholarship during the summer-term if funding is provided.
- Revises the state-to-private match requirements for the First Generation Matching Grant Program.
- Expands eligibility for the Benacquisto Scholarship Program to include eligible out-of-state students.
- Establishes the Florida Farmworker Student Scholarship Program for farmworkers and their children.
- Renames the Florida Resident Access Grant (FRAG) Program as the Effective Access to Student Success Grant (EASE) Program.
- Requires the BOG to submit recommendations on the most efficient process to achieve a complete performance-based continuous improvement funding model focused on outcomes.
- Requires the University of South Florida (USF) to develop and implement a plan for phasing-out the separate accreditation of the USF St. Petersburg and USF Manatee/Sarasota campuses.
- Provides specific appropriations.

This bill includes initiatives which increase state funding requirements by \$140 million. See Fiscal Comments.

Subject to the Governor’s veto powers, the effective date of this bill is upon becoming law, except as otherwise expressly provided.

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

STORAGE NAME: h0423d.EDC

DATE: 2/27/2018

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

##### **Board of Governors Powers and Duties Relating to Accountability**

The BOG is required to develop a strategic plan specifying goals and objectives for the State University System (SUS) and each constituent university, including each university's contribution to overall system goals and objectives.<sup>1</sup>

The strategic plan must include criteria for designating baccalaureate degree and master's degree programs at specified universities as high-demand programs of emphasis.<sup>2</sup> Fifty percent of the criteria for designation as high-demand programs of emphasis must be based on achievement of performance outcome thresholds determined by the BOG, and 50 percent of the criteria must be based on achievement of performance outcome thresholds specifically linked to:<sup>3</sup>

- job placement in employment of 36 hours or more per week and average full-time wages of graduates of the degree programs 1 year and 5 years after graduation; and
- data-driven gap analyses, conducted by the BOG, of the state's job market demands and the outlook for jobs that require a baccalaureate or higher degree.

The BOG is also required to develop an accountability plan for the SUS and each constituent university. The accountability plan must be submitted as part of the legislative budget request and address institutional and system achievement goals and objectives specified in the strategic plan.<sup>4</sup>

In May 2012, the Chair of the BOG issued a call to action to education, business and workforce, and legislative leaders to address Florida's need for future baccalaureate degree attainment.<sup>5</sup> In response to the call, the Commission on Higher Education Access and Educational Attainment (Commission), composed of seven members, was established. Among the major products from the Commission's work was a sustainable method for conducting a gap analysis of baccalaureate level workforce demand.<sup>6</sup>

##### **Preeminent State Research Universities Program**

The Preeminent State Research Universities Program is a collaborative partnership between the BOG and the Legislature to raise the academic and research preeminence of the highest performing state research universities in Florida.<sup>7</sup> A state university that meets 11 of the 12 academic and research excellence standards specified in law<sup>8</sup> is designated a "preeminent state research university."<sup>9</sup>

---

<sup>1</sup> Section 1001.706(5)(b), F.S.

<sup>2</sup> Section 1001.706(5)(b)4., F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Section 1001.706(5)(c), F.S.

<sup>5</sup> Board of Governors, *Aligning Workforce and Higher Education for Florida's Future* (Nov. 21, 2013), available at [http://www.flbog.edu/about/doc/commission-materials/Access-and-Attainment-Comm-FINAL-REPORT-10\\_29\\_13\\_rev.docx](http://www.flbog.edu/about/doc/commission-materials/Access-and-Attainment-Comm-FINAL-REPORT-10_29_13_rev.docx).

<sup>6</sup> *Id.*

<sup>7</sup> Section 1001.7065(1), F.S.

<sup>8</sup> Section 1001.7065(2), F.S. The standards include: incoming freshman academic characteristics (average weighted GPA and average SAT score); institutional ranking nationally; freshman retention rate; six-year graduation rate; national academy membership of institution faculty; research expenditures (2 measures); research expenditure national ranking; patents awarded annually; doctoral degrees awarded annually; postdoctoral appointees annually; and institutional endowment.

<sup>9</sup> Section 1001.7065(3)(a), F.S.

Currently, the University of Florida and the Florida State University are designated as preeminent state research universities.<sup>10</sup>

A state research university that meets at least 6 of the 12 standards is designated as an “emerging preeminent state research university.”<sup>11</sup> Currently, the University of Central Florida and the Tampa campus of the University of South Florida are designated as emerging preeminent state research universities.<sup>12,13</sup> Each designated emerging preeminent state research university receives an amount of funding that is equal to one-half of the total increased amount awarded to each designated preeminent state research university.

### Unique Courses

A university that is designated a preeminent state research university may require its incoming first-time-in-college (FTIC) students to take a six-credit set of unique courses.<sup>14</sup> The university may stipulate that credit for such courses may not be earned through any acceleration mechanism<sup>15</sup> or any other transfer credit specifically determined by the university.<sup>16</sup>

### Programs of National Excellence

The BOG is encouraged to establish standards and measures to identify individual programs in state universities that objectively reflect national excellence and make recommendations to the Legislature for ways to enhance and promote such programs.<sup>17</sup>

### **State University System Performance-Based Incentive**

Each fiscal year, the amount of funds available for allocation to the state universities based on the performance-based funding model consists of the state’s investment in performance funding plus institutional investments, which include funds deducted from the base funding of each state university in an amount provided in the General Appropriations Act (GAA).<sup>18</sup>

The SUS Performance-Based Incentive is awarded to state universities using performance-based metrics<sup>19</sup> adopted by the BOG.<sup>20</sup> The current metrics selected by the BOG include the following:<sup>21</sup>

- Percent of bachelor’s graduates employed (earning \$25,000+) and/or continuing their education further 1 year after graduation;
- Median average full-time wages of undergraduates employed in Florida 1 year after graduation;
- Average cost to the student (net tuition and fees per 120 semester credit hours);
- Six year graduation rate (full-time and part-time FTIC);

---

<sup>10</sup> Board of Governors, State University System of Florida, *System Summary of University Work Plans 2016*, at 10, available at [http://www.flbog.edu/about/doc/budget/workplan\\_2016/2016\\_SYSTEM\\_WORK\\_PLAN\\_2016-09-09.pdf](http://www.flbog.edu/about/doc/budget/workplan_2016/2016_SYSTEM_WORK_PLAN_2016-09-09.pdf)

<sup>11</sup> Section 1001.7065(3)(b), F.S.

<sup>12</sup> Board of Governors, State University System of Florida, *Meeting Minutes* (September 22, 2016), available at [http://www.flbog.edu/documents\\_meetings/0202\\_1035\\_7803\\_9.2.2%20BOG\\_minutes%202016\\_09\\_22.pdf](http://www.flbog.edu/documents_meetings/0202_1035_7803_9.2.2%20BOG_minutes%202016_09_22.pdf)

<sup>13</sup> Board of Governors, State University System of Florida, *Minutes* (June 22-23, 2016) available at [http://www.flbog.edu/documents\\_meetings/0201\\_1020\\_7637\\_13.2.2%20BOG\\_minutes%202016\\_06\\_23.pdf](http://www.flbog.edu/documents_meetings/0201_1020_7637_13.2.2%20BOG_minutes%202016_06_23.pdf)

<sup>14</sup> Section 1001.7065(6), F.S.

<sup>15</sup> Acceleration mechanisms include Advanced Placement (AP), International Baccalaureate (IB), Advanced International Certificate of Education (AICE), credit by examination, and dual enrollment.

<sup>16</sup> Section 1001.7065(6), F.S.

<sup>17</sup> Section 1001.7065(8), F.S.

<sup>18</sup> Section 1001.92(2), F.S.

<sup>19</sup> Board of Governors, *Performance Funding Model Overview*, available at [http://www.flbog.edu/about/budget/docs/performance\\_funding/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version.pdf](http://www.flbog.edu/about/budget/docs/performance_funding/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version.pdf).

<sup>20</sup> Section 1001.92(1), F.S.

<sup>21</sup> Board of Governors, *Performance Funding Model Overview*, available at [http://www.flbog.edu/about/budget/docs/performance\\_funding/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version.pdf](http://www.flbog.edu/about/budget/docs/performance_funding/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version.pdf)

- Academic progress rate (2<sup>nd</sup> year retention with GPA above 2.0);
- Bachelor’s degrees awarded in areas of strategic emphasis (includes STEM);
- University access rate (percent of undergraduates with a Pell grant);
- Graduate degrees awarded in areas of strategic emphasis (includes STEM)<sup>22</sup>;
- Board of Governors choice
  - Percent of baccalaureate degrees awarded without excess hours (FAMU, FAU, FGCU, FIU, UCF, UNF, USF, UWF)
  - Number of faculty awards (FSU, UF)
  - National ranking – Top 50 (NCF)
- Board of Trustees choice.

The BOG must adopt benchmarks to evaluate each state university’s performance on the metrics.<sup>23</sup> The evaluation measures a state university’s achievement of institutional excellence or need for improvement, which determines the university’s eligibility to receive performance funding.<sup>24</sup>

The BOG assigns points for both excellence and improvement and the higher point value on each metric is counted toward each university’s total score. A university must earn more than 50 points (out of a possible 100) to be eligible for the state investment in performance funding. However, the three lowest scoring institutions are not eligible for the state’s investment in performance funding regardless of whether they earn more than 50 points. In addition, any university that earns 50 points or less has its institutional investment withheld and is required to submit an improvement plan to the BOG. If improvement is demonstrated according to the approved improvement plan, the institutional investment will be restored.<sup>25</sup>

### Freedom of Expression on Campus

In 2013, the American Council of Trustees and Alumni (ACTA), with the James Madison Institute (JMI), produced a comprehensive report that reviewed state university policies in Florida relating to the right to free expression on campus.<sup>26</sup> The report found that, while Florida institutions have broad policy statements that declare the right to free expression on campus, they also have broad policies that punish “offensive” speech or restrict expression to designated “free speech zones.”<sup>27</sup> The Foundation for Individual Rights in Education (FIRE) also conducted a review of the state of free speech on college campuses.<sup>28</sup> FIRE conducted a survey of the publicly available policies at 449 4-year postsecondary institutions (345 public and 104 private) and found that 39.6 percent of those institutions maintain severely restrictive speech codes that prohibit constitutionally protected speech.<sup>29</sup> FIRE rated colleges and universities as either “red light,”<sup>30</sup> “yellow light,”<sup>31</sup> or “green light”<sup>32</sup> based on the amount of

<sup>22</sup> New College of Florida substitutes Freshman graduating in Top 10% of high school class for this metric.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Board of Governors, *Performance Funding Model Overview*, available at

[http://www.flbog.edu/about/budget/docs/performance\\_funding/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version.pdf](http://www.flbog.edu/about/budget/docs/performance_funding/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version.pdf)

<sup>26</sup> American Council of Trustees and Alumni (with the James Madison Institute), *Florida Rising: An assessment of Public Universities in the Sunshine State* (June 2013), [https://www.goacta.org/publications/florida\\_rising](https://www.goacta.org/publications/florida_rising) (last visited Jan. 11, 2018).

<sup>27</sup> *Id.*

<sup>28</sup> Foundation for Individual Rights in Education, *Spotlight on Free Speech Codes 2017*, <https://www.thefire.org/spotlight-on-speech-codes-2017/> (last visited Jan. 17, 2018).

<sup>29</sup> *Id.*

<sup>30</sup> Foundation for Individual Rights in Education, *Spotlight on Free Speech Codes 2017*, <https://www.thefire.org/spotlight-on-speech-codes-2017/> (last visited Jan. 17, 2018). A “red light” institution is one that has at least one policy both clearly and substantially restricting freedom of speech, or that bars public access to its speech-related policies by requiring a university login and password for access. A “clear” restriction is one that unambiguously infringes on protected expression.

<sup>31</sup> Foundation for Individual Rights in Education, *Spotlight on Free Speech Codes 2017*, <https://www.thefire.org/spotlight-on-speech-codes-2017/> (last visited Jan. 17, 2018). A “yellow light” institution is one that maintains policies that could be interpreted to suppress protected speech or policies that, while clearly restricting freedom of speech, restrict narrow categories of speech.

restrictions their written policies place on protected speech. Over a 9-year period, the number of public postsecondary institutions that received a “red light” rating dropped from 79 percent to 33.9 percent.<sup>33</sup>

As of 2017, the only Florida public universities that have received a “green light” campus free speech rating are the University of Florida and the University of North Florida.<sup>34</sup>

In January 2015, the Committee on Freedom of Expression at the University of Chicago produced a free speech policy statement (referred to as the “Chicago Statement”) that affirmed the centrality of unfettered debate to the university’s mission.<sup>35</sup> The statement provided in part:<sup>36</sup>

Because the University is committed to free and open inquiry in all matters, it guarantees all members of the University community the broadest possible latitude to speak, write, listen, challenge, and learn. Except insofar as limitations on that freedom are necessary to the functioning of the University, the University of Chicago fully respects and supports the freedom of all members of the University community “to discuss any problem that presents itself.”

Of course, the ideas of different members of the University community will often and quite naturally conflict. But it is not the proper role of the University to attempt to shield individuals from ideas and opinions they find unwelcome, disagreeable, or even deeply offensive. Although the University greatly values civility, and although all members of the University community share in the responsibility for maintaining a climate of mutual respect, concerns about civility and mutual respect can never be used as a justification for closing off discussion of ideas, however offensive or disagreeable those ideas may be to some members of our community.

Several other postsecondary institutions have adopted some version of the “Chicago Statement” since 2015.<sup>37</sup>

## US Constitutional Right to Free Speech

The First Amendment to the U.S. Constitution states that:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.<sup>38</sup>

---

<sup>32</sup> Foundation for Individual Rights in Education, *Spotlight on Free Speech Codes 2017*, <https://www.thefire.org/spotlight-on-speech-codes-2017/> (last visited Jan. 17, 2018). A “green light” institution is one whose written policies do not seriously threaten campus expression. It does not indicate whether an institution actively supports free expression in practice.

<sup>33</sup> Foundation for Individual Rights in Education, *Spotlight on Free Speech Codes 2017*, <https://www.thefire.org/spotlight-on-speech-codes-2017/> (last visited Jan. 17, 2018).

<sup>34</sup> James Madison Institute, *Free expression and Intellectual Diversity: How Florida Universities Currently Measure Up*. (December 14, 2017), available at <https://www.jamesmadison.org/Library/docLib/PolicyBrief-FreeSpeech-v05.pdf>.

<sup>35</sup> *Id.*

<sup>36</sup> University of Chicago, *Report of the Committee on Free Expression* (2015), available at <https://freexpression.uchicago.edu/sites/freexpression.uchicago.edu/files/FOECommitteeReport.pdf> (last visited Jan. 11, 2018).

<sup>37</sup> Foundation for Individual Rights in Education, *Spotlight on Free Speech Codes 2017*. Available at: <https://www.thefire.org/spotlight-on-speech-codes-2017/> (last visited Jan. 11, 2018).

<sup>38</sup> Congress.gov, The Constitution of the United States of America: Analysis and Interpretation, Amendments to the Constitution, Bill of Rights, 1<sup>st</sup> Amendment, p. 1071, available at <https://www.congress.gov/content/conan/pdf/GPO-CONAN-2017-10-2.pdf>.

## What Does Free Speech Mean?

The Supreme Court of the United States (SCOTUS) historically determines what exactly constitutes protected speech. The following are examples of speech, both direct (words) and symbolic (actions), that the SCOTUS has decided are, or are not, entitled to First Amendment protections.<sup>39</sup>

Freedom of speech includes the right:<sup>40</sup>

- Not to speak (specifically, the right not to salute the flag).<sup>41</sup>
- Of students to wear black armbands to school to protest a war (“Students do not shed their constitutional rights at the schoolhouse gate.”).<sup>42</sup>
- To use certain offensive words and phrases to convey political messages.<sup>43</sup>
- To contribute money to political campaigns.<sup>44</sup>
- To advertise commercial products and professional services.<sup>45</sup>
- To engage in symbolic speech such as burning the American flag in protest.<sup>46</sup>

Freedom of speech does not include the right:<sup>47</sup>

- To incite actions that would harm others such as shouting ‘fire’ in a crowded theater.<sup>48</sup>
- To make or distribute obscene materials.<sup>49</sup>
- To burn draft cards as an anti-war protest.<sup>50</sup>
- To permit students to print articles in a school newspaper over the objections of the school administration.<sup>51</sup>
- Of students to make an obscene speech at a school-sponsored event.<sup>52</sup>
- Of students to advocate illegal drug use at a school-sponsored event.<sup>53</sup>

## **Free Speech at Higher Education Institutions**

The SCOTUS stated that the “college classroom with its surrounding environs is peculiarly the ‘marketplace of ideas.’”<sup>54</sup> If public universities stifle student speech and prevent the open exchange of ideas on campus “our civilization will stagnate and die.”<sup>55</sup> In college classrooms young adults learn to exercise these constitutional rights necessary to participate in our system of government and to tolerate others’ exercise of the same rights. There is “no room for the view that . . . First Amendment protections should apply with less force on college campuses than in the community at large . . . Quite

---

<sup>39</sup> Administrative Office of the U.S. Courts, *About Federal Courts, Educational Resources, What Does Free Speech Mean?*, <http://www.uscourts.gov/about-federal-courts/educational-resources/about-educational-outreach/activity-resources/what-does> (last visited Jan. 11, 2018).

<sup>40</sup> *Id.*

<sup>41</sup> *West Virginia Board of Education v. Barnette*, 319 U.S. 624 (1943).

<sup>42</sup> *Tinker v. Des Moines*, 393 U.S. 503 (1969).

<sup>43</sup> *Cohen v. California*, 403 U.S. 15 (1971).

<sup>44</sup> *Buckley v. Valeo*, 424 U.S. 1 (1976).

<sup>45</sup> *Virginia Board of Pharmacy v. Virginia Consumer Council*, 425 U.S. 748 (1976); *Bates v. State Bar of Arizona*, 433 U.S. 350 (1977).

<sup>46</sup> *Texas v. Johnson*, 491 U.S. 397 (1989); *United States v. Eichman*, 496 U.S. 310 (1990).

<sup>47</sup> Administrative Office of the U.S. Courts, *About Federal Courts, Educational Resources, What Does Free Speech Mean?*, <http://www.uscourts.gov/about-federal-courts/educational-resources/about-educational-outreach/activity-resources/what-does> (last visited Jan. 11, 2018).

<sup>48</sup> *Schenck v. United States*, 249 U.S. 47 (1919).

<sup>49</sup> *Roth v. United States*, 354 U.S. 476 (1957).

<sup>50</sup> *United States v. O’Brien*, 391 U.S. 367 (1968).

<sup>51</sup> *Hazelwood School District v. Kuhlmeier*, 484 U.S. 260 (1988).

<sup>52</sup> *Bethel School District #43 v. Fraser*, 478 U.S. 675 (1986).

<sup>53</sup> *Morse v. Frederick*, 551 U.S. 393 (2007).

<sup>54</sup> *Healy v. James*, 408 U.S. 169, 180 (1972).

<sup>55</sup> *Sweezy v. New Hampshire*, 354 U.S. 234, 250 (1957)

to the contrary, the vigilant protection of constitutional freedoms is nowhere more vital than in the community of American schools.”<sup>56</sup>

### **State University Direct Support Organizations**

A university direct-support organization (DSO) is a Florida corporation not for profit, incorporated under the provisions of chapter 617 and approved by the Department of State<sup>57</sup>. Each of the 12 state universities have at least one DSO. The DSOs are organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to, or for the benefit of, a state university.<sup>58</sup> Each DSO has been reviewed and certified by the university BOT to be operating in a manner consistent with the goals of the university and in the best interest of the state.<sup>59</sup>

The university BOTs are currently authorized to permit the use of property, facilities, and personal services at their university by the DSO.<sup>60</sup> “Personal services” includes full-time or part-time personnel as well as payroll processing.<sup>61</sup> Currently, 10 of the state universities allow their DSOs to use personal services which are funded through university funds.

The university DSOs are currently prohibited from giving, either directly or indirectly, any gift to a political committee for any purpose other than those certified by a majority roll call vote of the governing board of the DSO at a regularly scheduled meeting as being directly related to the educational mission of the institution.<sup>62</sup>

Currently, all records of the DSOs other than the auditor’s report, management letter, and any supplemental data requested by the BOG, university BOT, the Auditor General, and the Office of Program Policy Analysis and Government Accountability are confidential.<sup>63</sup>

### **State University Research and Development**

According to the BOG, for Florida to “secure its place as a national leader in the 21st century, it must prove competitive in discovery and innovation.”<sup>64</sup> The stronger the universities and the State of Florida are in research and development (R&D) performance and reputation, the more competitive Florida becomes in attracting and retaining the best and most promising faculty, students, staff, and companies.<sup>65</sup>

In a 2014-15 National Science Foundation survey of R&D spending across the United States, the State of Florida ranked 4<sup>th</sup> on total research and development expenditures among public universities, behind California, Texas, and Michigan.<sup>66</sup> States with strong and competitive research enterprises support the research infrastructure within their state with a wide range of statewide grant programs to make their state universities more competitive for federal grant opportunities.<sup>67</sup>

---

<sup>56</sup> *Healy v. James*, 408 U.S. 169, 180 (1972).

<sup>57</sup> Section 1004.28(1)(a)(1), F.S.

<sup>58</sup> Section 1004.28(1)(a)(2), F.S.

<sup>59</sup> Section 1004.28(1)(a)(3), F.S.

<sup>60</sup> Section 1004.28(2)(a), F.S.

<sup>61</sup> Section 1004.28(1)(b), F.S.

<sup>62</sup> Section 1004.28(4), F.S.

<sup>63</sup> Section 1004.28(5)(b), F.S.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> Email. Board of Governors (Jan. 12, 2017)

<sup>67</sup> Board of Governors, *Draft of Advancing Research and Innovation Legislative Budget Request*, Presentation to the Board of Governors Task Force on University Research (Sept. 22, 2016), available at [http://www.flbog.edu/documents\\_meetings/0201\\_1017\\_7616\\_10.3.2%20TF-RSRCH%2003b%20LBR%20Request%20VPRs%20\\_2017\\_18%201aug2016%20Form%201%20\(002\)\\_JMI.pdf](http://www.flbog.edu/documents_meetings/0201_1017_7616_10.3.2%20TF-RSRCH%2003b%20LBR%20Request%20VPRs%20_2017_18%201aug2016%20Form%201%20(002)_JMI.pdf).

In Florida, the state universities have identified the need for funding to support university efforts to:<sup>68</sup>

- increase research capacity, output, and impact through targeted cluster hiring of talented faculty and strategic investments in research infrastructure;
- increase and enhance undergraduate student participation in research through undergraduate research programs; and connect university research to Florida's industry and economic development through industry-sponsored research at state universities and research commercialization activities.

### Florida Bright Futures Scholarship Program

The Florida Bright Futures Scholarship Program (Bright Futures) was established in 1997<sup>69</sup> as a lottery-funded scholarship program to reward a Florida high school graduate who merits recognition for high academic achievement. The student must enroll in a degree program, certificate program, or applied technology diploma program at an eligible public or private postsecondary education institution<sup>70</sup> in Florida after graduating from high school.<sup>71</sup> Bright Futures consists of three types of awards:<sup>72</sup>

- Florida Academic Scholars (FAS);<sup>73</sup>
- Florida Medallion Scholars (FMS);<sup>74</sup> and
- Florida Gold Seal Vocational Scholars (FGSV) and Florida Gold Seal CAPE Scholars.<sup>75</sup>

Bright Futures program award amounts are specified annually in the GAA.<sup>76</sup> The 2017-2018 GAA provides FAS awards equal to 100 percent of tuition and applicable fees, and an additional \$300 each fall and spring semester for textbooks and college-related expenses.<sup>77</sup> The applicable fees include the activity and service fee, health fee, athletic fee, financial aid fee, capital improvement fee, campus access/transportation fee, technology fee, and the tuition differential fee.<sup>78</sup> However, current law prohibits both the technology fee and tuition differential fee from being included in any Florida Bright Futures Scholarship Program award.<sup>79</sup> The Department of Education (DOE) authorized these fees to be included in the 2017-2018 FAS awards<sup>80</sup> as appropriated in the 2017-2018 GAA. Students attending a private postsecondary education institution receive a comparable amount.<sup>81</sup>

A student may use a Bright Futures award for summer term enrollment if funds are available.<sup>82</sup> However, funds have not been appropriated for Bright Futures summer term awards since the 2000-2001 fiscal year.<sup>83</sup>

---

<sup>68</sup> *Id.*

<sup>69</sup> Section 2, ch. 1997-77, L.O.F.

<sup>70</sup> A student who receives any award under the Florida Bright Futures Scholarship Program, who is enrolled in a nonpublic postsecondary education institution, and who is assessed tuition and fees that are the same as those of a full-time student at that institution, receives a fixed award calculated by using the average tuition and fee calculation as prescribed by the Department of Education for full-time attendance at a public postsecondary education institution at the comparable level. Section 1009.538, F.S.

<sup>71</sup> Sections 1009.53(1) and 1009.531(2)(a)-(c), F.S. Starting with 2012-2013 graduates, a student graduating from high school is able to accept an initial award for 2 years following high school and to accept a renewal award for 5 years following high school graduation.

<sup>72</sup> Section 1009.53(2), F.S.

<sup>73</sup> Section 1009.534, F.S.

<sup>74</sup> Section 1009.535, F.S.

<sup>75</sup> Section 1009.536, F.S.

<sup>76</sup> Sections 1009.534(2), 1009.535(2), and 1009.536(3), F.S.

<sup>77</sup> Specific Appropriation 4, 2017-70, L.O.F. The 2017-2018 GAA also provides FMS awards at \$77 at 4-year institutions, \$63 at 2-year institutions, \$53 for upper-division programs at Florida Colleges, and \$39 for career and technical centers. *Id.*

<sup>78</sup> Florida Department of Education, 2017-18 Bright Futures Scholarship Program Award Amounts Update, July 12, 2017, *available at* <http://edr.state.fl.us/content/conferences/financialaid/DOEMemorandum.pdf>.

<sup>79</sup> Sections 1009.22(7), 1009.23(10), 1009.24(13) and (16), F.S.

<sup>80</sup> Florida Department of Education, 2017-18 Bright Futures Scholarship Program Award Amounts Update, July 12, 2017, *available at* <http://edr.state.fl.us/content/conferences/financialaid/DOEMemorandum.pdf>.

<sup>81</sup> Section 1009.538, F.S.

<sup>82</sup> Section 1009.53 (9), F.S.



## First Generation Matching Grant Program

The First Generation Matching Grant Program was established in 2006<sup>84</sup> to enable each state university to provide donors with a matching grant incentive for contributions to create grant-based student financial aid for undergraduate students who demonstrate financial need and whose parents have not earned a baccalaureate degree.<sup>85</sup> Funds appropriated for the program must be allocated by the Office of Student Financial Assistance (within the DOE) to match private contributions on a dollar-for-dollar basis.<sup>86</sup>

## Benacquisto Scholarship Program

The Benacquisto Scholarship Program, created in 2014,<sup>87</sup> rewards any Florida high school graduate who receives recognition as a National Merit Scholar (NMS) or National Achievement Scholar (NAS) and who enrolls in a baccalaureate degree program at an eligible Florida public or independent postsecondary education institution.<sup>88</sup> Among other statutory eligibility requirements,<sup>89</sup> the student must earn a standard Florida high school diploma or equivalent and be a state resident.<sup>90</sup>

The award amounts are as follows:

- At a Florida public postsecondary education institution the award is equal to the institutional cost of attendance less the sum of the student's Bright Futures Scholarship and NMS or NAS award.<sup>91,92</sup>
- At a Florida independent postsecondary education institution the award is equal to the highest cost of attendance at a Florida public university, as reported by the BOG, less the sum of the student's Bright Futures Scholarship and NMS or NAS award.<sup>93</sup>

## Stanley G. Tate Florida Prepaid College Program

The Florida Prepaid College Program (Prepaid Program) provides families an affordable and secure way to save for tuition and specified fees at Florida's postsecondary institutions.<sup>94</sup> The Prepaid Program allows a family to pay for tuition and specified fees in advance of enrollment in a state postsecondary institution at a rate lower than the projected corresponding cost at the time of actual enrollment.<sup>95</sup> These payments are invested in a manner that yields sufficient interest to generate the difference between the prepaid amount and the cost of tuition and specified fees at the time of actual enrollment. For the Fall 2014 semester, 57,945 students used a Florida Prepaid College Plan at a state university.<sup>96</sup>

---

<sup>83</sup> Florida Office of Economic and Demographic Research, Student Financial Aid Impact Conference (March 2015), available at <http://edr.state.fl.us/Content/conferences/financialaidimpact/archives/150303financialaidimpact.pdf>.

<sup>84</sup> Section 1, ch. 2006-73, L.O.F.

<sup>85</sup> Section 1009.701(1), F.S.

<sup>86</sup> *Id.* at (2)

<sup>87</sup> The Benacquisto Scholarship Program was formerly titled the Florida National Merit Scholar Incentive Program. Section 26, ch. 2016-237, L.O.F.

<sup>88</sup> Section 1009.893, F.S.

<sup>89</sup> Section 1009.893(4), F.S.

<sup>90</sup> Section 1009.893(4)(a), F.S. Under section 1009.40(1)(a)2., F.S., the student must meet the requirements of Florida residency for tuition purposes under s. 1009.21, F.S.; see also Rule 6A-10.044, F.A.C.

<sup>91</sup> The National Merit Scholarship Corporation discontinued the National Achievement Scholarship Program with the conclusion of the 2015 program, <http://www.nationalmerit.org/s/1758/interior.aspx?sid=1758&gid=2&pgid=433> (last visited Jan. 20, 2017).

<sup>92</sup> Section 1009.893(5)(a), F.S.

<sup>93</sup> *Id.* at (5)(b)

<sup>94</sup> Florida Prepaid College Board 2015 Annual Report, available at [http://www.itppv.com/documents/pdf/fpcb\\_2015\\_annual\\_report\\_web.pdf](http://www.itppv.com/documents/pdf/fpcb_2015_annual_report_web.pdf).

<sup>95</sup> Section 1009.98, F.S.

<sup>96</sup> Florida Prepaid College Board 2015 Annual Report, available at [http://www.itppv.com/documents/pdf/fpcb\\_2015\\_annual\\_report\\_web.pdf](http://www.itppv.com/documents/pdf/fpcb_2015_annual_report_web.pdf).

## **William L. Boyd, IV, Florida Resident Access Grant (FRAG)**

The William L. Boyd, IV, FRAG is a tuition assistance program that is available to full-time degree-seeking undergraduate students registered at an independent nonprofit college or university which is located in and chartered by the state; which is accredited by the SACSCOC; which grants baccalaureate degrees; is not a state university or FCS institution; and has a secular purpose.<sup>97</sup>

## **University of South Florida Branch Campuses**

The University of South Florida (USF) is currently considered to be a “system” which includes three, separately accredited institutions: USF; USF St. Petersburg; and USF Sarasota/Manatee.<sup>98</sup> Both USF St. Petersburg and USF Sarasota/Manatee must be operated and maintained as separate organizational and budget entities of USF and all appropriations for both campuses are set forth as separate line items in the GAA.<sup>99</sup> Both campuses are required to have a Campus Board and a Campus Executive Officer<sup>100</sup> and obtain separate SACSCOC accreditation.<sup>101</sup>

## **Effect of Proposed Changes**

### **Board of Governors Powers and Duties Relating to Accountability**

The bill modifies the requirements of the strategic plan, developed by the BOG, to require state universities to use data-driven gap analyses to identify internship opportunities in high-demand fields. Modifications to BOG’s strategic plan emphasize the value of internships in experiential learning.<sup>102</sup> Through internships, students are likely to gain exposure to relevant on-the-job experience and develop skills critical to securing and maintaining gainful employment in high-demand fields of unmet need.

The bill directs each university board of trustees, by June 1, 2018, to submit to the BOG a comprehensive proposal to improve the 4-year graduation rate of undergraduate students. Each plan must be implemented beginning in the fall 2018 academic semester and must:

- identify academic, financial, policy, and curricular incentives and disincentives for timely graduation.
- outline a proactive financial aid program that will enable students with financial need to take at least 15 credit hours in both the fall and spring semesters; and
- include assurances that there will be no increase in cost to students.

Each university must submit, as part of its annual accountability plan, information on the effectiveness of its plan for improving 4-year graduation rates and the amount of financial assistance provided to students for this purpose.

### **Preeminent State Research Universities Program**

Consistent with the emphasis on a 4-year graduation rate metric for the SUS Performance-Based Incentive program, the bill revises the full-time FTIC student graduation rate metric for the preeminent state research university program from a 6-year to a 4-year rate, and modifies the benchmark for the

---

<sup>97</sup> Section 1009.89(1) and (3), F.S.

<sup>98</sup> University of South Florida – About USF <http://www.usf.edu/about-usf/index.aspx> (last visited January 11, 2018).

<sup>99</sup> Sections 1004.33(1)(a) and 1004.34(1)(a), F.S.

<sup>100</sup> Sections 1004.33(1)(b) and 1004.34(1)(b), F.S.

<sup>101</sup> Sections 1004.33(1)(c) and 1004.34(1)(c), F.S.

<sup>102</sup> Governor Scott’s “Finish in Four, Save More” challenge encourages universities and colleges to “make it easier for students to get class credit for internships in their fields, which puts students on the path to getting a good paying job.” Office of the Governor, *Governor Rick Scott Issues “Finish in Four, Save More” Challenge to Universities and Colleges* (May 25, 2016) <http://www.flgov.com/2016/05/25/governor-rick-scott-issues-finish-in-four-save-more-challenge-to-universities-and-colleges/> (last visited Jan. 20, 2017).

graduation rate metric from 70 percent to 60 percent. The amount of funding provided to emerging preeminent state research universities is revised from one-half to one-quarter of the total additional funding awarded to preeminent state research universities.

### Unique Courses

The bill eliminates the authority for the preeminent state research universities to require FTIC students to take a six-credit unique set of courses. Currently, UF lists two such courses and Florida State University lists one such course.<sup>103</sup>

### Programs of Excellence

The bill changes from a recommendation to a requirement that the BOG establish standards and measures for programs of excellence throughout the SUS and specifies that the programs include undergraduate, graduate, and professional degrees. Additionally, the bill requires the BOG to make recommendations to the Legislature for enhancing and promoting such programs by September 1, 2018.

### **State University System Performance-Based Incentive**

The bill revises the 6-year graduation rate metric to a 4-year metric for full-time, first-time-in-college students and requires the access metric to include benchmarks that must be differentiated and scored to reflect varying access rates among universities.

The bill requires the BOG, in consultation with the state universities, to submit to the Governor, President of the Senate and Speaker of the House by October 1, 2019, recommendations on the most efficient process to achieve a complete performance-based continuous improvement funding model focused on outcomes that provides for the equitable distribution of performance funds. The Legislature will also review recommendations from an independent entity that must consult with the BOG to receive input on behalf of the state university system. No recommendation may be implemented unless affirmatively enacted by the Legislature.

### **Freedom of Expression on Campus**

The bill creates the "Campus Free Expression Act" (Act), which addresses the issue of free speech on the campuses of public postsecondary institutions.

The Act defines the following terms:

- Commercial Speech is defined as speech in which the individual is engaged in commerce, where the intended audience is commercial or actual or potential customers, and where the content of the message is commercial.
- Free speech zone is defined as a designated area on a public institution of higher education's campus for the purpose of engaging in expressive activities.
- Outdoor areas of campus is defined as generally accessible areas of the campus in which members of the campus community are commonly allowed, including grassy areas, walkways, or other similar common areas. The term does not include outdoor areas in which access is restricted.
- Public institution of higher education (institution) is defined as any public technical center, state college, state university, law school, medical school, dental school, or other FCS institution as defined in s. 1000.21, F.S.
- Material and substantial disruption is defined as any conduct that intentionally and significantly hinders another person's or group's expressive rights. It does not include conduct protected under the First Amendment to the U.S. Constitution or Article I of the State Constitution,

---

<sup>103</sup> Florida Statewide Course Numbering System (<http://scns.fldoe.org>).

including but not limited to, lawful protests and counter protests in the outdoor areas of campus or minor, brief, and fleeting nonviolent disruptions that are isolated or short in duration.

Free speech rights are protected by enforcing the right to peacefully protest or distribute literature on campus, and clarifying that an individual's expressive rights may not be infringed upon. Protected activities include speeches and writings that an individual uses to communicate ideas to others.

The bill expressly includes the following protected activities:

- Peaceful assembly, protests, and speeches.
- Guest speakers.
- Distributing literature.
- Carrying signs.
- Circulating petitions.
- Video or audio recording in outdoor areas of campus.

Reasonable limits on expressive activities are permitted; however, students, faculty, or staff may not materially disrupt activities on campus. An individual may exercise rights freely as long as his or her conduct is lawful and does not materially and substantially disrupt the functioning of the public institution of higher education.

Restrictions must be reasonable and content-neutral on time, place, and manner of expression. These restrictions must be narrowly tailored to a significant institutional interest. This clarifies the legal standard for courts to apply and ensures that regulations are truly necessary to prevent disruption. All restrictions must be clear, published, and provide for ample alternative means of expression. Additionally, institutions are prohibited from creating policies restricting expressive activities to a particular area of campus and designating free speech zones.

The bill grants an individual standing to seek declaratory and injunctive relief, including reasonable court costs and attorneys' fees, if his or her expressive rights are violated.

### **State University Direct Support Organizations**

The bill prohibits state university BOTs from permitting the use of state funds for travel expenses by any state university DSO. DSOs are also prohibited from giving, either directly or indirectly, any gift to a political committee.

The bill narrows the provisions of current law relating to the confidentiality of records of a university DSO. Pursuant to the bill, any information related to the expenditure of state funds, and any information related to the expenditure of private funds for travel are no longer confidential.

The bill strengthens the oversight of DSOs by university boards of trustees by requiring each board to establish thresholds for approval of purchases, acquisitions, projects, and issuance of debt. In addition, the bill revises the appointment and approval process for members of a DSO board of directors. Specifically, the chair of the board of trustees will appoint at least one representative to the board of directors and the executive committee of any DSO and the board of trustees shall approve all other appointments.

The bill requires that personal services for DSOs must comply with requirements for other state employees and stipulates that, no later than July 1, 2019, university transfers of any state appropriation to direct-support organizations by a board of trustees may include only funds pledged for capital projects. In addition, each university board of trustees must annually report on the amount of appropriated funds that are transferred to a DSO, the purpose for each transfer, and the remaining balance, if any, of funds transferred.

## **World Class Faculty and Scholar Program**

The bill establishes the World Class Faculty and Scholar Program to elevate the national prominence of state universities in Florida. Specifically, this section:

- Authorizes state university investments in recruiting and retaining talented faculty and specifies that funding for the program will be as provided in the GAA.
- Expresses that such investments may include, but not be limited to, investments in research-centric cluster hires, faculty research and research commercialization efforts, instructional and research infrastructure, undergraduate student participation in research, professional development, awards for outstanding performance, and postdoctoral fellowships.
- Expresses that such investments may not be used for the construction of buildings.
- Requires annually, by March 15, the BOG to provide to the Governor, President of the Senate, and Speaker of the House of Representatives, an accountability report which includes specific expenditure information on program funds and the impact of those expenditures in elevating the national competitiveness of the universities, specifically relating to the:
  - success in recruiting research faculty and the resulting research funding;
  - 4-year graduation rate;
  - number of undergraduate courses offered with fewer than 50 students; and
  - increased national academic standing of targeted programs.

## **State University Professional and Graduate Degree Excellence Program**

The bill establishes the State University Professional and Graduate Degree Excellence Program (Degree Excellence Program) to fund and support the efforts of state universities to enhance the quality and excellence of professional schools and graduate degree programs in medicine, law, and business, and expand the economic impact of state universities. Specifically, the bill:

- Authorizes quality improvement efforts of the state universities and specifies that funding for the program will be as provided in the GAA.
- Expresses that such efforts may include, but not be limited to, targeted investments in faculty, students, research, infrastructure, and other strategic endeavors to elevate the national and global prominence of state university medicine, law, and graduate-level business programs.
- Expresses that funds may not be used for the construction of buildings.
- Requires annually, by March 15, the BOG to provide to the Governor, President of the Senate, and Speaker of the House of Representatives, an accountability report which includes specific expenditure information on program funds and the impact of those expenditures in elevating the national and global prominence of the university medicine, law, and graduate-level business programs, specifically relating to the:
  - first-time pass rate on the United States Medical Licensing Examination;
  - first-time pass rate on the Florida Bar Examination;
  - percentage of graduates enrolled or employed at a wage threshold that reflects the added value of a graduate-level business degree;
  - advancement in rankings of the state university medicine, law, and graduate-level business programs; and
  - added economic benefit of the universities to the state.

## **Developmental Education**

The bill strengthens developmental education instruction provided by state universities by emphasizing the focus on instructional strategies specified in law.<sup>104</sup> FAMU is the only state university within the SUS that provides developmental education.<sup>105</sup> Consequently, FAMU may need to revise its developmental education program to incorporate the developmental education strategies specified in law.

---

<sup>104</sup> Section 1008.02, F.S.

<sup>105</sup> BOG Regulation 6.008(1).

## Florida Bright Futures Scholarship Program

The bill eliminates the prohibitions in Florida law<sup>106</sup> regarding the inclusion of the following fees in Florida Bright Futures Scholarship Program awards:

- Technology fees at state universities and FCS institutions, and for postsecondary workforce education provided by school districts and FCS institutions.
- The tuition differential fee at a state university.

The bill codifies the FAS award amount<sup>107</sup> to cover 100 percent of tuition and certain tuition-indexed fees<sup>108</sup> plus \$300 for textbooks and educational expenses during each fall and spring semester or the equivalent, beginning in the 2017-2018 academic year. The Legislature appropriated \$397.3 million in the 2017-2018 GAA for the Bright Futures Program, which includes \$274.1 million<sup>109</sup> to provide FAS awards at an amount equal to 100 percent of tuition and specified fees, including a \$300 per semester textbook stipend.<sup>110</sup>

Award amounts for the FMS award are increased to cover 75 percent of tuition and specified fees, beginning in the 2018 fall semester. Additionally, Florida Bright Futures Scholarship awards may be used for summer term enrollment if funds are provided in the GAA.

Compared to 2017, FMS awards, the 75 percent award amount is projected to increase the per-credit-hour awards as shown in the table below:

	2017-2018 FMS Per-Credit-Hour Award <sup>111</sup>	Projected 2018-2019 FMS Per-Credit-Hour Award
4-Year Institutions	\$77	\$159
2-Year Institutions	\$63	\$80
Upper Division in the FCS	\$53	\$92
Career/Technical Education	\$39	\$62

<sup>106</sup> Sections 1009.22(7), 1009.23(10), and 1009.24(13), F.S.

<sup>107</sup> The 2017-2018 GAA provides that Florida Academic Scholars must receive an award equal to 100 percent of tuition and applicable fees, and an additional \$300 each fall and spring semester for textbooks and college-related expenses. Specific Appropriation 4, 2017-70, L.O.F.

<sup>108</sup> The tuition-indexed fees specified in the bill include financial aid, capital improvements, technology enhancements, equipping buildings, or the acquisition of improved real property, and technology (s. 1009.22, F.S.); activity and service, financial aid, technology, capital improvements, technology enhancements, and equipping student buildings or the acquisition of improved real property (s. 1009.23, F.S.); financial aid, Capital Improvement Trust Fund, activity and service, health, athletic, technology, transportation access, and includes the tuition differential (s. 1009.24, F.S.). The bill specifies that only university-wide transportation access fees may be included in any Bright Futures award.

<sup>109</sup> Office of Economic & Demographic Research, Florida Bright Futures Scholarship Program, Awards History and Forecast, available at: <http://edr.state.fl.us/Content/conferences/financialaid/ConferenceResults.pdf>, at 7.

<sup>110</sup> Specific Appropriation 4, 2017-70 L.O.F.

<sup>111</sup> *Id.*

## First Generation Matching Grant Program

The bill expands need-based financial aid by revising the state to private match requirements from a 1:1 match to a 2:1 match and by authorizing FCS institutions to participate in the program. In Fiscal Year 2015-16, 8,234 initial and renewal students received an average award of \$1,289.45, with 13,700 unfunded eligible students reported by postsecondary education institutions.<sup>112</sup> The increase in the state matching contribution may raise the award amount or make more awards available for eligible students, which may help these students to graduate on time.

## Benacquisto Scholarship Program

The bill modifies eligibility requirements for the Benacquisto Scholarship Program to attract qualified students from out-of-state and assist these students in paying for higher education in Florida, graduate on time, and incur less education-related debt. Specifically, this section:

- Establishes student eligibility criteria, which apply only to students who are not residents of the state and who initially enroll in a baccalaureate degree program in the 2018-2019 academic year or thereafter, requiring such students to:
  - Physically reside in Florida on or near the campus of the postsecondary education institution in which they enroll;
  - Earn a high school diploma or equivalent or complete a home education program, comparable to Florida; and
  - Be accepted by and enroll full-time in a baccalaureate degree program at an eligible regionally accredited public or private postsecondary education institution.
- Provides that for an eligible student who is not a resident of the state and who attends:
  - A public postsecondary education institution, the award amount must be equal to the institutional cost of attendance<sup>113</sup> for a resident of the state less the student's National Merit Scholarship. Such student is exempt from out-of-state fees.
  - A private postsecondary education institution, the award amount must be equal to the highest cost of attendance<sup>114</sup> for a resident of the state enrolled at a state university, less the student's National Merit Scholarship.

Of the 320 National Merit Scholars (NMS) and National Achievement Scholars (NAS) who initially enrolled in a Florida college or university in the 2015-16 academic year,<sup>115</sup> 266 received an initial award as a Benacquisto Scholar.<sup>116</sup> The other 54 NMS who enrolled in a Florida university during the 2015-16 academic year most likely graduated from out-of-state high schools, and thus were not eligible for the Benacquisto Scholarship. Assuming this number of students remains constant for the 2018-19 academic year, and these out-of-state students otherwise meet the eligibility requirements, the cost to fund the additional out-of-state students is estimated to be \$1.2 million.

## Florida Farmworker Student Scholarship Program

The bill creates the Florida Farmworker Scholarship Program (Farmworker Scholarship), to be administered by the DOE. The DOE may award up to 50 scholarships annually to farmworkers, as defined in s. 420.503, and the children of such farmworkers, who meet the scholarship eligibility criteria.

---

<sup>112</sup> Florida Department of Education, Office of Student Financial Assistance, *End-of-Year Report, 2015-16*, First Generation Matching Grant Program (FGMG), available at [https://www.floridastudentfinancialaidsg.org/pdf/EOY\\_Reports/2015-16/FGMG\\_2015\\_2016.pdf](https://www.floridastudentfinancialaidsg.org/pdf/EOY_Reports/2015-16/FGMG_2015_2016.pdf).

<sup>113</sup> The 2016-17 cost of attendance on campus for full time undergraduate Florida resident students includes tuition and fees, books and supplies, room and board, transportation, and other expenses; the average annual cost of attendance for the State University System is \$21,534.98. Board of Governors, *Fall/Spring Cost of Attendance On-Campus for Full-Time Undergraduate Florida Residents 2016-17*, available at [http://www.flbog.edu/about/doc/budget/attendance/CostAttendance2016\\_17\\_FINAL.xlsx](http://www.flbog.edu/about/doc/budget/attendance/CostAttendance2016_17_FINAL.xlsx).

<sup>114</sup> The highest State University System cost of attendance in 2016-17 is \$23,463 at Florida International University.

<sup>115</sup> National Merit Scholarship Corporation, *2014-15 Annual Report* (Oct. 31, 2015), available at [http://www.nationalmerit.org/s/1758/images/gid2/editor\\_documents/annual\\_report.pdf](http://www.nationalmerit.org/s/1758/images/gid2/editor_documents/annual_report.pdf).

<sup>116</sup> Florida Department of Education, Office of Student Financial Assistance, *End-of-Year Report, 2015-16*, Benacquisto Scholarship (FIS), available at: [https://www.floridastudentfinancialaidsg.org/pdf/EOY\\_Reports/2015-16/FIS\\_2015\\_2016.pdf](https://www.floridastudentfinancialaidsg.org/pdf/EOY_Reports/2015-16/FIS_2015_2016.pdf).

The DOE must rank eligible initial applicants based on need. To be eligible for an initial scholarship, a student must:

- Have resident status as required by s. 1009.40, F.S., and rules of the SBE;
- Earn a minimum cumulative 3.5 weighted grade point average (GPA) for all high school courses creditable towards a diploma;
- Complete a minimum of 30 hours of community service; and
- Have at least a 90 percent attendance rate and not have had any disciplinary action brought against him or her, as documented on the student's high school transcript.

Undocumented immigrants are not eligible for an award. A Farmworker Scholarship recipient, who is enrolled full-time, is eligible for an award equal to 100 percent of tuition and specified fees at a public postsecondary institution. A scholarship recipient must maintain a cumulative 2.5 college GPA to renew the award, and may receive funding for a maximum of 100 percent of the number of credit hours required to complete his or her degree program or, for a program that culminates in a career certificate, 100 percent of the credit hours or clock hours required to complete up to 90 credit hours. The bill specifies that funding for the Farmworker Scholarship is contingent upon an appropriation in the GAA and provides requirements for the DOE in disbursing scholarship funds.

### **Stanley G. Tate Florida Prepaid College Program**

The bill specifies that a Florida Prepaid College Program plan (Prepaid Plan), purchased prior to July 1, 2024, is obligated to pay only for the credit hours in which a student is enrolled. In effect, this section of the bill protects a student under any potential block tuition policy by limiting the Prepaid Plan obligation to actual hours in which the student enrolls, even if the student enrolls in fewer credit hours than the rate at which the block tuition is set.

### **William L. Boyd, IV, Florida Resident Access Grant (FRAG)**

The bill renames the William L. Boyd, IV, Florida Resident Access Grant (FRAG) Program as the William L. Boyd, IV, Effective Access to Student Education (EASE) Grant Program.

### **University of South Florida**

The bill ends the separate accreditation of the branch campuses of USF, while retaining separate campus boards and regional chairs for USF St. Petersburg and USF Sarasota/Manatee. The bill establishes the membership and powers and duties of each campus board and requires that campus board chairs be represented on the USF Board of Trustees. Faculty and students at each campus must also be represented in the academic and student governance structures of USF.

The USF Board of Trustees must publish and approve an annual operating budget for each campus and report on the distribution of funds, including student tuition and fees, preeminence funding, and performance-based funding provided to each campus. Additionally, beginning July 1, 2021, the board of trustees must also publish a biennial regional impact report, which details the specific increased investments in university programs located in Pinellas, Sarasota, and Manatee counties.

The bill requires the USF Board of Trustees to appoint a task force to make recommendations, by February 15, 2019, regarding the transition of the USF St. Petersburg and USF Sarasota/Manatee from separately accredited campuses to branch campuses of the University of South Florida under one single accreditation.

The task force must make recommendations, no later than February 15, 2019, regarding:

- The identification of specific degrees in programs of strategic significance to be offered at the USF St. Petersburg and the USF Sarasota/Manatee campuses.
- Maintaining the unique identity of each campus;
- Maintaining faculty input from all campuses during the review and development of general education requirements;



- Developing the research capacity at each campus;
- Ensuring access for students who require bridge programs and financial aid; and
- Establishing budget transparency and accountability to enable the equitable distribution of resources to each campus.

By March 15, 2019, after considering the recommendations of the task force, the USF Board of Trustees must adopt and submit an implementation plan to the BOG to phase-out the separate SACSCOC accreditation of the USF St. Petersburg and USF Sarasota/Manatee campuses. The implementation plan must:

- Provide detailed steps and a timeline to ensure that each campus's separate accreditation is terminated no later than June 30, 2020, with no lapse in accreditation for any campus during the phase-out process;
- Be carried out in a manner that limits disruption to students attending any USF campus and does not impede any student's ability to complete a baccalaureate degree in 4 years;
- Provide that all campuses and other component units of USF shall operate under a single institutional accreditation from SACSCOC on or before July 1, 2020; and
- Provide that, on each regularly scheduled submission date after July 1, 2020, USF will report consolidated data for all campuses and students to the BOG and the Integrated Postsecondary Education Data System (IPEDS).

The bill provides that, for purposes of determining eligibility for funding through the State University System Performance-Based Incentive or the Preeminent State Research Universities Program, students who meet all of the following criteria will not be included by the BOG when calculating or confirming the graduation rate or retention rate for USF:

- The student was admitted and initially enrolled before the spring 2019 semester as an FTIC student at the USF St. Petersburg or the USF Sarasota/Manatee; and
- The student voluntarily disenrolled from all USF campuses without graduating before the date of termination of the separate SACSCOC accreditation of his or her admitting campus.

The bill repeals current law relating to the separate accreditation of USF St. Petersburg and USF Sarasota/Manatee.

Finally, the bill specifies that the Florida Center for the Partnership for Arts Integrated Teaching within USF shall be physically headquartered at the university's Sarasota/Manatee campus.

## B. SECTION DIRECTORY:

**Section 1.** Names the act the "Florida Excellence in Higher Education Act of 2018."

**Section 2.** Amends s.1001.706, F.S., requiring each state university to use gap analysis to identify internship opportunities for students; requiring university boards of trustees to submit a proposal to increase 4-year graduation rates by June 1, 2018 for implementation in the fall 2018

**Section 3.** Amends s. 1001.7065, F.S., revising the excellence standards and benchmarks for the Preeminent State Research Universities program; reducing funding for available for emerging preeminent state research universities; revising the authority for preeminent institutions to stipulate a special course requirement for incoming students; and requiring the BOG to establish standards and measures for programs of national excellence.

**Section 4.** Amends s. 1001.71, F.S., revising the definition of regional representation for university boards of trustees.

**Section 5.** Amends s. 1001.92, F.S., revising the metrics for the State University System Performance-Based Incentive.

**Section 6.** Creates s. 1004.097, F.S.; establishing the Campus Free Expression Act.

**Section 7.** Amends s. 1004.28, F.S., revising the requirements for rules a state university board of trustees must adopt relating to the services, activities, and expenses of its DSOs; prohibiting the transfer of funds to certain state university DSOs; prohibiting the use of state funds for certain purposes; requiring the chair of the board of trustees to appoint certain members of a state university DSO; requiring the university board of trustees to approve all appointments to a state university; deleting an exception to the prohibition against DSOs donating gifts to a political committee; requiring the disclosure of certain financial documents;

**Section 8.** Repeals ss. 1004.33 and 1004.34, F.S., effective July 1, 2020.

**Section 9.** Creates s. 1004.335, F.S., requiring USF to adopt and submit a plan, no later than March 15, 2019, to phase out the separate accreditations of USF St. Petersburg and USF Manatee/Sarasota by July 1, 2020; providing that certain students may not be included in specified graduation and retention rate calculations.

**Section 10.** Creates s. 1004.341, F.S.; establishing University of South Florida Campuses.

**Section 11.** Amends s. 1004.344, F.S., specifying the physical location of the Florida Center for the Partnership for Arts Integrated Teaching is at the USF Sarasota/Manatee campus.

**Section 12.** Creates s. 1004.6497, F.S., creating the World Class Faculty and Scholar Program to fund and support efforts of state universities to recruit and retain exemplary faculty and research scholars.

**Section 13.** Creates s. 1004.6498, F.S., creating the State University Professional and Graduate Degree Excellence Program to support the efforts of state universities to enhance the quality and excellence of programs in medicine, law, and business.

**Section 14.** Amends s. 1008.30, F.S., revising developmental education instruction at a state university.

**Section 15.** Amends 1009.22, F.S., providing authority for the payment of specific postsecondary workforce education fees with Bright Futures Scholarship awards.

**Section 16.** Amends s. 1009.23, F.S., providing authority for the payment of specific Florida College System fees with Bright Futures Scholarship awards.

**Section 17.** Amends s. 1009.24, F.S., providing authority for the payment of specific state university fees with Bright Futures Scholarship awards.

**Section 18.** Amends s. 1009.53, F.S., permitting students to use Bright Futures Scholarship awards for summer term beginning in the 2018 summer term; authorizing the use of other Bright Futures Scholarship awards for summer term if funding is provided in the GAA.

**Section 19.** Amends s. 1009.534, F.S., revising award amount for the Florida Academic Scholars award.

**Section 20.** Amends s. 1009.535, F.S., revising award amount for the Florida Medallion Scholars award.

**Section 21.** Amends s. 1009.701, F.S., revising the contribution ratios for the First Generation Matching Grant Program.

**Section 22.** Amends s. 1009.893, F.S., expanding eligibility for the Benacquisto Scholarship Program to include eligible out-of-state students.

**Section 23.** Creating s. 1009.894, F.S., establishing the Florida Farmworker Student Scholarship Program for farmworkers and their children.

**Section 24.** Amends s. 1009.98, F.S., specifies that a Florida Prepaid College Program Plan is obligated to pay only for the credit hours in which a student is enrolled.

**Section 25.** Directs the Division of Law Revision and Information to prepare a Reviser's bill for the 2019 Regular Session to substitute the term "Effective Access to Student Education Grant Program" for "Florida Resident Access Grant Program" and the term Effective Access to Student Education grant" for "Florida resident access grant."

**Section 26.** Requires the Board of Governors, in consultation with the state universities and by a specified date, to submit recommendations on a process to achieve a complete performance-based continuous improvement funding model; requires the Legislature to review recommendations from an independent entity; requires such entity to consult with the Board of Governors; requires legislative action before implementation of any recommendations.

**Section 27.** Provides appropriations.

**Section 28.** Provides effective dates.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The estimated fiscal impact to expand the Bright Futures Scholarship coverage for the 2018-2019 fiscal year is \$121.8 million in recurring funds from the Educational Enhancement Trust Fund (EETF). More specifically,

- \$11.7 million in additional funding to cover the workload increase associated with 3,699 additional FAS students which includes funding for the summer term. The total cost to provide 100 percent of tuition and fees for FAS is \$68.8 million (\$59.3 million, plus \$9.5 million for the summer term). Recurring funding was provided in the 2017-2018 General Appropriations Act to cover 100 percent of tuition and fees to FAS, including the summer term;<sup>117</sup> therefore, only funding for the increased workload is included in the total estimated fiscal impact for the 2018-2019 fiscal year. The Department of Education is currently providing FAS awards at 100 percent of tuition and fees during 2017-2018.<sup>118</sup>
- \$81.7 million for the FMS award to cover 75 percent of tuition and specified fees for an estimated 46,521 FMS-eligible students, and
- \$28.4 million for 2018-2019 FMS summer term awards at 75% of tuition and fees.

<sup>117</sup> Chapter 2017-70, Laws of Florida, (SB 2500), Specific Appropriation 4

<sup>118</sup> Department of Education memorandum: OSFA-State: #17-18:07

The estimated fiscal impact of expanding the Benacquisto Scholarship Program Fund for a projected 59 additional scholars from out of state is \$1.2 million for the 2018-2019 fiscal year.

The estimated cost for the Florida Farmworker Student Scholarship Program is \$317,355 in Fiscal Year 2018-2019. \$500,000 in recurring general revenue was appropriated for this program in the 2017-2018 General Appropriations Act.<sup>119</sup> The appropriation was in anticipation of CS/CS/SB 374 becoming law in Fiscal Year 2017-2018. The new program's implementation did not occur since the Governor vetoed CS/CS/SB 374.<sup>120</sup> No additional appropriation is required in the 2018-19 fiscal year because the associated recurring funds for the scholarship program as provided in the 2017-2018 General Appropriations Act were not vetoed, and therefore, remain in the base budget.

Additionally, the following provisions are expected to have an indeterminate impact on state revenues and expenditures:

- Requiring state universities to adopt and implement a block tuition policy for resident and non-resident undergraduate students at the state universities.
- Establishing the World Class Faculty and Scholar Program - funding will be as provided in the GAA.
- Establishing the State University Professional and Graduate Degree Excellence programs - funding will be as provided in the GAA.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill increases financial aid and tuition assistance to students. Specifically, the bill:

- Modifies the Florida Medallion Scholars (FMS) award to an amount equal to 75 percent of public postsecondary education institution tuition and specified fees for educational expenses. The increase in the FMS award to cover 75 percent of tuition and specified fees may increase the current average FMS award per academic year by approximately:
  - \$2,000 if the student is enrolled at a 4-year institution.
  - \$300 if the student is enrolled at a 2-year institution.
- Expands the Benacquisto Scholarship Program to include out-of-state National Merit Scholar students who meet the specified eligibility criteria, which is likely to provide a significant cost savings to such students. Such students may be eligible for an annual award of approximately \$21,148.
- Doubles the state match for the First Generation in College Matching Grant, which may make the matching grant available to additional eligible students, provide increased awards to currently eligible students, or a combination of the two.

---

<sup>119</sup> Chapter 2017-70, Laws of Florida, (SB 2500), Specific Appropriation 73

<sup>120</sup> The Florida Farmworker Student Scholarship Program was created in section 134 of CS for CS for SB 374, which was vetoed.

<http://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=56972&SessionId=83>

- Establishes the Florida Farmworker Student Scholarship Program for farmworkers and the children of farmworkers. Scholarship recipients are eligible for an award equal to 100 percent of tuition and specified fees at a public postsecondary institution. A scholarship recipient who enrolls in 30 credit hours per academic year at a state university is estimated to receive an award of approximately \$6,000.
- Requires state universities to adopt and implement a block tuition policy. The impact on students will depend upon the parameters of the various policies implemented and the number of credits in which a particular student enrolls.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

N/A

2. Other:

N/A

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 17, 2018, the House Post-Secondary Education Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as amended. The PCS as amended differs from the bill in the following ways:

#### State University System Performance Funding Incentive

- Revises existing performance funding metrics to include:
  - 4-year graduation rate for FTIC students
  - 2-year graduation rate for 2+2 transfer students
  - 6 year graduation rates for Pell-eligible students as compared with non-Pell-eligible students
  - Percent of students graduating without excess hours (for all institutions)
  - Retention rates that incorporate 30, 60 and 90 credit hour milestones.
  - Additional metrics approved by the BOG that reflect the unique mission of each university
- Requires the BOG to develop and implement a performance agreement with each university that (by August 1, 2018) establishes baseline benchmarks unique to each university on the common performance metrics.
- Requires the BOG to establish 1-year, 2-year, 3-year, and 4-year benchmarks for improvement based on the performance agreement entered into with each university.
- Requires the office of the inspector general to annually verify the accuracy of the data used to implement performance funding and preeminence funding.
- Requires the BOG, in consultation with the state universities, to submit to the Governor, Senate President and Speaker (by January 1, 2019), a plan for transitioning from the current partial performance-based funding model to a complete performance-based continuous improvement funding

model focused on outcomes.

- Stipulates that the Legislature will also consult with an independent contractor to develop an alternative transition plan.
- Legislative approval of performance plans is required before any performance funds may be distributed beginning with the 2019-2020 fiscal year.

### **State University Direct Support Organizations (DSOs)**

- Requires that personal services for DSOs must comply with requirements for other state employees.
- Requires thresholds for approval of purchases, acquisitions, projects, and issuance of debt.
- Requires that, no later than July 1, 2019, university transfers of any state appropriation to direct-support organizations by a board of trustees may include only funds pledged for debt.
- Revises the appointment and approval process for members of a DSO board of directors.

### **Block Tuition**

- Delays the implementation date for the block tuition policy from fall 2018 to fall 2019 semester.
- Stipulates that block tuition policy may not increase the cost of tuition and fees for students above 2017-2018 level

### **State University Accountability Process**

- Amends the due date for the BOG annual accountability report from December 31 to March 15.

### **Reverse Transfer**

- Requires the statewide articulation agreement to include a reverse transfer agreement that requires a state university to transfer credits back to the FCS institution once the remaining credits for the AA degree have been earned so that the FCS institution can grant the student an AA degree from the FCS institution.

### **Employment Data Access**

- Requires the BOG to enter into an agreement with DEO that allows access to reemployment assistance wage data for purposes of auditing and evaluating higher education programs at state universities.

### **Developmental Education**

- Allows colleges to assess students using the PERT (on a case-by-case basis) for diagnostic purposes to improve advising and collect student success data.

### **Administrative Growth Rate**

- Requires the legislative budget request to include 5-year trend information on ratios of student enrollment to faculty and administrators at each university.
- The ratio of students to administrators at any state university may not grow at a greater rate than the ratio of students to faculty.

### **First Generation Matching Grant Program**

- Requires that additional funds must first be used to increase the number of students getting a scholarship before the amount of each scholarship awarded may be increased.

### **University of South Florida**

- Requires USF Board of Trustees, no later than January 15, 2019, to adopt and submit an implementation plan to the Board of Governors to phase-out the separate SACSCOC accreditation of the USF St. Petersburg and USF Manatee/Sarasota campuses.
- Requires termination of separate accreditation by June 30, 2020, with no lapse in accreditation for any USF campus.
- Requires that, on or before July 1, 2020, the entirety of the USF, including all campuses and other component units of the university shall operate under a single institutional accreditation.
- Requires consolidation of data for all campuses for purposes of reporting data to IPEDS and BOG.

- Holds USF harmless for students who enroll in a branch campus prior to consolidation or who drop out of all USF campuses before the separation.
- Specifies that PAInT is physically headquartered at the Manatee/Sarasota location of USF.

### **Intellectual and Viewpoint Diversity**

- Requires BOG to annually, by September 1, report on the intellectual freedom and viewpoint diversity at each institution by conducting a survey of students, faculty and administrators.

### **Retroactivity**

- Removes retroactivity of certain provisions to 2017-2018.

### **Specific Appropriations**

- Deletes specific appropriations in the bill.

On February 27, 2018, the House Education Committee adopted a strike-all amendment, with one amendment to the strike-all, and reported the bill favorably as a committee substitute. The committee substitute differs from the bill in the following ways:

- Removes the requirement for the BOG to annually, by September 1, report on the intellectual freedom and viewpoint diversity at each institution by conducting a survey of students, faculty and administrators.
- Removes revisions to state university performance-based funding metrics including:
  - 2-year graduation rate for 2+2 transfer students;
  - 6 year graduation rates for Pell-eligible students as compared with non-Pell-eligible students;
  - Percent of students graduating without excess hours (for all institutions);
  - Retention rates that incorporate 30, 60 and 90 credit hour milestones; and
  - Additional metrics approved by the BOG that reflect the unique mission of each university
- Revises the 6-year graduation rate metric to a 4-year metric for full-time, first-time-in-college students and requires the access metric to include benchmarks that must be differentiated and scored to reflect varying access rates among universities.
- Removes requirement for the BOG to develop and implement a performance agreement with each university that (by August 1, 2018) establishes baseline benchmarks unique to each university on the common performance metrics.
- Removes requirement for the BOG to establish 1-year, 2-year, 3-year, and 4-year benchmarks for improvement based on the performance agreement entered into with each university.
- Removes requirement for the office of the inspector general to annually verify the accuracy of the data used to implement performance funding and preeminence funding.
- Removes requirement for the BOG to enter into an agreement with DEO that allows access to reemployment assistance wage data for purposes of auditing and evaluating higher education programs at state universities.
- Removes requirement for the legislative budget request to include 5-year trend information on ratios of student enrollment to faculty and administrators at each university and the requirement that the ratio of students to administrators at any state university may not grow at a greater rate than the ratio of students to faculty.
- Removes the requirement that additional funds for the First Generation Matching Grant Program must first be used to increase the number of students getting a scholarship before the amount of each scholarship awarded may be increased.
- Removes authorization for colleges to assess students using the PERT (on a case-by-case basis) for diagnostic purposes to improve advising and collect student success data.
- Removes the provisions requiring each state university to adopt a block tuition policy for implementation in fall 2019.

- Requires each university board of trustees to submit a proposal to increase 4-year graduation rates by June 1, 2018 for implementation in the fall 2018.
- Removes requirement for the statewide articulation agreement to include a reverse transfer agreement that requires a state university to transfer credits back to the FCS institution once the remaining credits for the AA degree have been earned.
- Establishes the “Campus Free Expression Act.”
- Revises USF accreditation consolidation language to require the USF Board of Trustees to appoint a task force to make recommendations on the transition to one single accreditation for all campuses.
- Adds specific appropriations.

The bill analysis is drafted to the committee substitute as adopted by the Education Committee.