

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Appropriations Subcommittee on Education

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BILL: SB 146

INTRODUCER: Senators Ring and Gaetz

SUBJECT: Federal Student Loan Default Rates

DATE: December 1, 2015

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bailey</u>	<u>Klebacha</u>	<u>HE</u>	<b>Favorable</b>
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>AP</u>	_____

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## I. Summary:

SB 146 utilizes federal student loan cohort default rates as an accountability measure for public and private postsecondary educational institutions. Specifically, the bill defines and applies federal student loan cohort default rates as a criteria affecting the licensure of certain private postsecondary educational institutions; tuition assistance award eligibility for the William L. Boyd, IV, Florida Resident Access Grant (FRAG), and the Access to Better Learning and Education (ABLE) Grant; and specific performance funding for Florida College System (FCS) institutions and state universities.

The bill has no impact on state funds. Currently, no institutions eligible to award FRAG or ABLE awards would be impacted by this bill. A very small number of proprietary schools may lose their license under the provisions of this bill.

The bill takes effect July 1, 2016.

## II. Present Situation:

The United States Department of Education (ED) annually calculates the federal student loan cohort default rates. The ED releases the cohort default rates annually by September 30.<sup>1</sup> Defaulted federal student loans cost taxpayers money.<sup>2</sup> Cohort default rate sanctions and benefits provide an incentive for schools to work with their borrowers to reduce default.<sup>3</sup> Sanctions can

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<sup>1</sup> U.S. Department of Education, Federal Student Aid, *Frequently Asked Questions*, <http://www.ifap.ed.gov/DefaultManagement/faq/FAQ.html> (last visited October 14, 2015).

<sup>2</sup> U.S. Department of Education, *Cohort Default Rate Guide (Sep. 2015)*, available at <http://ifap.ed.gov/DefaultManagement/guide/attachments/CDRMasterFile.pdf>, at 61 of 218.

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

prevent a school with a high percentage of defaulters from continuing to participate in the William D. Ford Federal Direct Loan (Direct Loan) Program and federal Pell Grant programs.<sup>4</sup>

### **Federal Student Loan Default Rates**

Federal student loans are borrowed funds that must be repaid with interest.<sup>5</sup> Failure to repay a loan can result in default.<sup>6</sup> For most federal student loans, an individual will default if he or she does not make a payment in more than 270 days.<sup>7</sup>

On October 28, 2009, ED published the regulations enacted by the Higher Education Opportunity Act of 2009 that govern the calculation of cohort default rates.<sup>8</sup> An institution's cohort default rate is calculated as a percentage of borrowers in the cohort who default before the end of the second fiscal year after the fiscal year in which the borrowers entered repayment.<sup>9</sup> This extends the length of time in which a student can default from two to three years.<sup>10</sup> "A 3-year cohort default rate is the percentage of a school's borrowers who enter repayment on certain Federal Family Education Loan (FFEL) Program or Direct Loan Program loans during a particular federal fiscal year, October 1 to September 30, and default or meet other specified conditions prior to the end of the second following fiscal year."<sup>11</sup>

If an institution's three most recent cohort default rates are 30 percent or higher for the 3-year cohort default rate calculation, the institution will lose Direct Loan and federal Pell Grant program eligibility for the remainder of the fiscal year in which the school is notified of its sanction and for the following two fiscal years, unless the institution successfully adjusts or appeals the sanctions.<sup>12</sup> If an institution's cohort default rate is higher than 40 percent for the 3-year cohort default rate calculation, the institution will lose Direct Loan program eligibility for the remainder of the fiscal year in which the institution is notified of its sanction and the following two fiscal years, unless the institution successfully adjusts or appeals the sanction.<sup>13</sup>

The Florida Legislature provides state funds to public and certain private postsecondary educational institutions through several sources including, but not limited to, tuition assistance grants and performance funding. Current law also specifies accountability requirements that both public and private postsecondary educational institutions must meet.

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<sup>4</sup> *Id.*

<sup>5</sup> U.S. Department of Education, Federal Student Aid, *Default Rates*, <https://studentaid.ed.gov/about/data-center/student/default> (last visited October 14, 2015); U.S. Department of Education, Federal Student Aid, *Cohort Default Rate Guide*, <http://ifap.ed.gov/DefaultManagement/CDRGuideMaster.html> (last visited October 14, 2015).

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

<sup>7</sup> *Id.*

<sup>8</sup> U.S. Department of Education, *Three-Year Official Cohort Default Rates for Schools*, <http://www2.ed.gov/offices/OSFAP/defaultmanagement/cdr.html> (last visited October 14, 2015).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> U.S. Department of Education, *Cohort Default Rate Guide (Sep. 2015)*, available at <http://ifap.ed.gov/DefaultManagement/guide/attachments/CDRMasterFile.pdf>, at 63 of 218.

<sup>13</sup> *Id.*

## **Operation of Private Postsecondary Educational Institutions**

Private postsecondary educational institutions must be licensed to operate in Florida and meet specified fair consumer practices requirements.

### ***Licensure of Institutions***

The Commission for Independent Education (CIE or commission) is responsible for developing minimum standards to evaluate institutions for licensure.<sup>14</sup> Current law requires that the standards must, at a minimum, include the institution's name, financial stability, purpose, administrative organization, admissions and recruitment, educational programs and curricula, retention, completion, career placement, faculty, learning resources, student personnel services, physical plant and facilities, publications, and disclosure statements about the status of the institution related to professional certification and licensure.<sup>15</sup> A postsecondary educational institution must obtain licensure from the commission to operate in the state of Florida, unless such institution is not under the commission's jurisdiction or purview.<sup>16</sup>

Institutions that are exempt from licensure by the commission include, but are not limited to, Independent Colleges and Universities of Florida (ICUF) institutions that are eligible to participate in the FRAG program.<sup>17</sup> Such colleges and universities must be not for profit, located and chartered in Florida, and accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (SACS) to grant baccalaureate degrees.<sup>18</sup>

### ***Licensure by Means of Accreditation***

A private postsecondary educational institution that meets the following criteria may apply for a license by means of accreditation from the commission:

- The institution has operated legally in this state for at least five consecutive years.
- The institution holds institutional accreditation by an accrediting agency evaluated and approved by the commission as having standards substantially equivalent to the commission's licensure standards.
- The institution has no unresolved complaints or actions in the past 12 months.
- The institution meets minimum requirements for financial responsibility as determined by the commission.
- The institution is a Florida corporation.

An institution that is granted a license by means of accreditation must comply with the standards and requirements in law.<sup>19</sup>

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<sup>14</sup> Section 1005.31(2), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Sections 1005.31(1)(a) and 1005.06(1), F.S.

<sup>17</sup> Section 1005.06(1)(c), F.S.

<sup>18</sup> *Id.*

<sup>19</sup> Section 1005.32, F.S.

### ***Fair Consumer Practices***

A private postsecondary educational institution that is under the jurisdiction of the commission<sup>20</sup> or is exempt from the jurisdiction or purview of the commission must do the following:<sup>21</sup>

- Disclose to each prospective student specified information (e.g., a statement of the purpose of the institution, its educational programs and curricula, a description of its physical facilities, its status regarding licensure, and its fee schedule and policies). The institution must make the required written disclosures at least 1 week prior to enrollment or collection of any tuition from the prospective student.
- Use a reliable method to assess, before accepting a student into a program, the student's ability to successfully complete the course of study for which he or she has applied.
- Inform each student accurately about financial assistance and obligations for repayment of loans, describe any employment placement services provided and the limitations thereof, and refrain from misinforming the public about guaranteed placement, market availability, or salary amounts.
- Provide to prospective and enrolled students accurate program licensure information for practicing related occupations and professions in Florida.
- Ensure that all advertisements are accurate and not misleading.
- Publish and follow an equitable prorated refund policy for all students, and follow both the federal refund guidelines for students receiving federal financial assistance and the minimum refund guidelines established by commission rule.
- Follow state and federal requirements for annual reporting of crime statistics and physical plant safety, and make such reports available to the public.
- Publish and follow procedures for handling student complaints, disciplinary actions, and appeals.

### **Florida Resident Access Grant Program**

The Legislature, through the William L. Boyd, IV, Florida Resident Access Grant (FRAG) Program, provides tuition assistance to undergraduate students enrolled in degree programs at eligible not-for-profit, SACS-accredited private colleges or universities that are located and chartered in Florida.<sup>22</sup> Currently, there are 31 eligible private colleges and universities.<sup>23</sup> FRAG

<sup>20</sup> The Commission for Independent Education, established in the Department of Education, is responsible for exercising independently all powers, duties, and functions concerning independent postsecondary educational institutions in consumer protection, program improvement, and licensure of institutions under its purview. The commission is also responsible for authorizing the granting of diplomas and degrees by independent postsecondary educational institutions under its jurisdiction. Section 1005.21(1)-(2), F.S. Independent postsecondary educational institution means "any postsecondary educational institution that operates in this state or makes application to operate in this state, and is not provided, operated, and supported by the State of Florida, its political subdivisions, or the Federal Government." Section 1005.02(11), F.S.

<sup>21</sup> Section 1005.04(1), F.S.

<sup>22</sup> Section 1009.89(1) and (3), F.S.

<sup>23</sup> Independent Colleges and Universities of Florida, *About Us*, <http://www.icuf.org/newdevelopment/about-icuf/> (last visited October 14, 2015). FRAG-eligible institutions are Adventist University of Health Sciences, Ave Maria University, Barry University, Beacon College, Bethune-Cookman University, Eckerd College, Edward Waters College, Embry-Riddle Aeronautical University, Everglades University, Flagler College, Florida College, Florida Institute of Technology, Florida Memorial University, Florida Southern College, Hodges University, Jacksonville University, Keiser University, Lynn University, Nova Southeastern University, Palm Beach Atlantic University, Ringling College of Art and Design, Rollins College, Saint Leo University, Southeastern University, St. Thomas University, Stetson University, The Baptist College of Florida, University of Miami, University of Tampa, Warner University, and Webber International University. Florida

is administered as a decentralized program, which means that each participating institution determines application deadlines, student eligibility, and award amounts.<sup>24</sup> Eligibility criteria and maximum award amounts are specified in law.<sup>25</sup> For the 2015-2016 fiscal year, the Legislature appropriated \$115,269,000 to support 38,423 qualified Florida resident students at \$3,000 per student for tuition assistance.<sup>26</sup>

### **Access to Better Learning and Education Grant Program**

The Access to Better Learning and Education (ABLE) Grant Program provides tuition assistance to undergraduate students enrolled in degree programs at eligible private Florida postsecondary educational institutions.<sup>27</sup> ABLE is administered as a decentralized program, which means that each participating institution determines application deadlines, student eligibility, and award amounts.<sup>28</sup> Eligibility criteria and award maximums are specified in law.<sup>29</sup> For the 2015-2016 fiscal year, the Legislature appropriated \$5,673,000 to support 3,782 qualified Florida resident students at \$1,500 per student for tuition assistance.<sup>30</sup>

Private postsecondary educational institutions must meet the following criteria to be qualified to provide ABLE awards to eligible students:<sup>31</sup>

- Be a for-profit college or university that is located in and chartered by the state and is accredited by SACS, or be a not-for-profit college or university that has been located in Florida for 10 years or more and is accredited by SACS, the Middle States Association of Colleges and Schools, the North Central Association of Colleges and Schools, or the New England Association of Colleges and Schools.
- Grant baccalaureate degrees.
- Have a secular purpose.

Currently, 16 postsecondary educational institutions meet the established criteria and are eligible to disburse ABLE awards.<sup>32</sup>

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Department of Education, *2015-16 Florida Resident Access Grant Program Eligible Institutions*, [https://www.floridastudentfinancialaid.org/admin/SAWELIGPSI\\_ByProg.asp?ByProg=FRAG](https://www.floridastudentfinancialaid.org/admin/SAWELIGPSI_ByProg.asp?ByProg=FRAG) (last visited October 14, 2015).

<sup>24</sup> Florida Department of Education, *Annual Report to the Commissioner* (2013-14), available at <http://www.floridastudentfinancialaid.org/SSFAD/pdf/annualreportcurrent.pdf>, at 39 of 78.

<sup>25</sup> Section 1009.89(4)-(6), F.S.; Specific Appropriation 70, s. 2, ch. 2014-51, L.O.F.

<sup>26</sup> Specific Appropriation 65, s. 2, ch. 2015-232, L.O.F.

<sup>27</sup> Section 1009.891(3), F.S.; Florida Department of Education, *Annual Report to the Commissioner* (2013-14), available at <http://www.floridastudentfinancialaid.org/SSFAD/pdf/annualreportcurrent.pdf>, at 41 of 78.

<sup>28</sup> Florida Department of Education, *Annual Report to the Commissioner* (2013-14), available at <http://www.floridastudentfinancialaid.org/SSFAD/pdf/annualreportcurrent.pdf>, at 41 of 78.

<sup>29</sup> Section 1009.891(4)-(7), F.S.

<sup>30</sup> Specific Appropriation 62, s. 2, ch. 2015-232, L.O.F.

<sup>31</sup> Section 1009.891(3), F.S.; Florida Department of Education, *Annual Report to the Commissioner* (2013-14), available at <http://www.floridastudentfinancialaid.org/SSFAD/pdf/annualreportcurrent.pdf>, at 41 of 78.

<sup>32</sup> Florida Department of Education, *Annual Report to the Commissioner* (2013-14), available at <http://www.floridastudentfinancialaid.org/SSFAD/pdf/annualreportcurrent.pdf>, at 41 of 78. The 16 ABLE-eligible institutions are AI Miami International University of Art & Design, Carlos Albizu University, Columbia College, Florida National University, Herzing University, Johnson & Wales University, Johnson University, National Louis University, Polytechnic University of Puerto Rico, South University, Springfield College, Trinity International University, Union Institute & University, Universidad Del Este, Universidad Del Turabo, and Universidad Metropolitana. Florida Department

## Florida College System Program Fund

The Florida College System Program Fund comprised of appropriations made by the Legislature for operational support of the FCS institutions.<sup>33</sup> Program funds are apportioned and distributed to each FCS institution in accordance with the law and rules of the State Board of Education.<sup>34</sup> Performance funding for industry certifications for FCS institutions is contingent upon specific appropriation in the General Appropriations Act (GAA).<sup>35</sup>

## Performance Funding for State Universities

Section 1011.905, F.S., establishes state funds for the State University System to be based on indicators of system and institutional attainment of performance expectations.<sup>36</sup> The Board of Governors of the State University System of Florida (BOG) must review and rank each state university that applies for performance funding, as provided in the GAA, based on formula specified in law.<sup>37</sup> The formula specifies that 50 percent of a state university's score for performance funding must be based on the factors determined by the BOG (i.e., factors relating to increasing the probability of the employment of graduates from state universities in high-skill, high-wage, and high-demand jobs).<sup>38</sup>

### III. Effect of Proposed Changes:

The bill utilizes federal student loan cohort default rates as an accountability measure for public and private postsecondary educational institutions.

Specifically, the bill specifies the following requirements that impact public and private postsecondary educational institutions:

- Public Postsecondary Educational Institutions
  - Performance funding for industry certifications for the FCS institutions must factor-in the institutions' federal student loan default rates.
  - Subject to funds provided in the GAA, 50 percent of a state university's score for performance funding must include the university's federal student loan cohort default rate, in addition to the factors determined by the BOG, as specified in s. 1011.905, F.S. (i.e., factors relating to increasing the probability of the employment of graduates from state universities in high-skill, high-wage, and high-demand jobs).<sup>39</sup>
- Private Postsecondary Educational Institutions
  - Private postsecondary educational institutions must provide federal student loan default rate information as part of the fair consumer practices reporting requirements.

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of Education, *2014-15 Access to Better Learning and Education Grant Program Eligible Institutions*, [https://www.floridastudentfinancialaids.org/admin/SAWELIGPSI\\_ByProg.asp?ByProg=ABLE](https://www.floridastudentfinancialaids.org/admin/SAWELIGPSI_ByProg.asp?ByProg=ABLE) (last visited October 15, 2015).

<sup>33</sup> Section 1011.81, F.S.

<sup>34</sup> *Id.*

<sup>35</sup> Section 1011.81(2), F.S.

<sup>36</sup> Section 1011.905, F.S.

<sup>37</sup> *Id.*

<sup>38</sup> Section 1011.905(1)(c), F.S.

<sup>39</sup> Section 1011.905(1)(c), F.S.

- Private postsecondary educational institutions must maintain federal student loan cohort default rates below 30 percent for three consecutive years or at or below 40 percent for any given year.
- A private postsecondary educational institution that is eligible to receive the FRAG or the ABLE Grant for incoming students will be deemed ineligible to receive such funds until the institution's federal student loan cohort default rate falls below the threshold. Additionally, an institution, if licensed by the CIE, will lose its license to operate in Florida.

The bill requires the CIE to revoke the license and deny renewal of an annual license of an institution that is under the commission's jurisdiction, if that institution's federal student loan cohort default rate exceeds the percent threshold. An institution's ineligibility to receive FRAG or ABLE funds or maintain a license will be effective for the academic year after the disclosure of the federal student loan cohort default rate in the fall semester each year. The bill deems an institution ineligible for a minimum of one academic year until the institution's federal student loan cohort default rate falls below the threshold.

Additionally, the bill requires:

- The minimum standards developed by the commission to include federal student loan cohort default rates as calculated by the ED.
- The criteria for applying for licensure by means of accreditation to also include a condition that the institution's federal student loan cohort default rate, as calculated by the ED, does not exceed 30 percent.

The bill takes effect July 1, 2016.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

Currently, no institutions eligible to award FRAG or ABLE awards would be impacted by SB 146. There are a very small number of private, proprietary postsecondary institutions which may have their license revoked as a result of provisions in the bill.

**C. Government Sector Impact:**

The bill has no fiscal impact. The performance funding for state universities authorized under s. 1011.905, F.S., was not funded in either the 2014-2015 or 2015-2016 fiscal years.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1005.04, 1005.31, 1005.32, 1011.81, and 1011.905.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.