

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

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

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

**BILL:** PCS/CS/SB 524 (314320)

**INTRODUCER:** Appropriations Subcommittee on Education; Higher Education Committee; and Senator Gaetz

**SUBJECT:** State University System Performance-based Incentives

**DATE:** December 7, 2015      **REVISED:** \_\_\_\_\_

|    | ANALYST      | STAFF DIRECTOR  | REFERENCE  | ACTION                          |
|----|--------------|-----------------|------------|---------------------------------|
| 1. | <u>Graf</u>  | <u>Klebacha</u> | <u>HE</u>  | <u>Fav/CS</u>                   |
| 2. | <u>Sikes</u> | <u>Elwell</u>   | <u>AED</u> | <u><b>Recommend: FAV/CS</b></u> |
| 3. | _____        | _____           | <u>AP</u>  | _____                           |

**I. Summary:**

PCS/CS/SB 524 incorporates into the Florida Statutes on July 1, 2016, and modifies public postsecondary education performance funding and educator liability insurance program provisions affected by the 2015-2016 General Appropriations Act (GAA) and Implementing Bill by:

- Requiring the Board of Governors (BOG) to adopt a regulation implementing the State University System (SUS) Performance-Based Incentive Program. The program must include wage thresholds that reflect the added value of a baccalaureate degree and minimum performance funding eligibility thresholds that, if not met, will make an institution ineligible for the state’s investment in performance funding.
- Requiring the State Board of Education (SBE or state board) to establish, by rule, performance-based metrics for the Florida College System (FCS) and minimum performance funding eligibility thresholds that, if any FCS institution does not meet, will make the institution ineligible for a share of the state’s investment in performance funding. Likewise, any FCS institution that fails to meet the threshold for the institutional investment shall have a portion of its institutional investment withheld.
- Eliminating the July 1, 2016, expiration date of the educator liability insurance program that provides a minimum of \$2 million in liability coverage for all full-time public school instructional personnel.

During the 2015A Special Session, the Legislature adopted the substance of PCS/CS/SB 524, related to the SUS Performance-Based Incentive, the FCS Performance-Based Incentive, and the educator liability insurance program, in ch. 2015-222, L.O.F., the implementing bill for the 2015-2016 General Appropriations Act (GAA). These provisions will expire on July 1, 2016, unless the Legislature acts to codify the policy beyond the 2015-2016 fiscal year. PCS/CS/SB 524 protects these policies from repeal by reenacting modified provisions and providing an effective date of July 1, 2016.

The bill also amends the preeminent state research universities program, to require the BOG to designate each state university that meets at least six of the 12 academic and research excellence standards identified in law as an “emerging preeminent state research university.” The bill modifies the academic and research excellence standards of the preeminent state research universities program and establishes funding parameters for universities designated as “preeminent” or “emerging preeminent.”

The bill has no impact on state funds. The amount of performance funding available to SUS and FCS institutions is determined annually in the GAA. In the 2015-2016 fiscal year, the Legislature appropriated \$150 million for the state’s investment in the SUS Performance-Based Incentive and \$20 million for the state’s investment in the FCS Performance-Based Incentive. Likewise, funding for the preeminent state research universities program, as well as the educator liability insurance program, are contingent upon funding in the GAA. In the 2015-2016 fiscal year, the Legislature appropriated \$10 million for the preeminent state research universities program and \$1.2 million for the educator liability insurance program.

The bill is effective July 1, 2016.

## II. Present Situation:

### Performance-Based Funding

The Legislature has established performance-based funding models in the recent years to evaluate the performance of Florida’s public educational institutions, such as state universities and FCS institutions, based on identified performance metrics.

#### *State University System*

In 2014, the Legislature required that performance funding be allocated based on the BOG’s Performance Funding Model approved on January 16, 2014.<sup>1</sup> The BOG’s Performance Funding Model contained 10 performance metrics that evaluate the state universities on the following:<sup>2</sup>

- Percent of bachelor’s degree graduates employed and/or continuing their education;
- Average wages of employed baccalaureate graduates;
- Cost per undergraduate degree;
- Six-year graduation rate (full-time and part-time first time in college (FTIC));
- Academic Progress Rate (second year retention with grade point average above 2.0);
- Bachelor’s degrees awarded in areas of strategic emphasis (including Science, Technology, Engineering, and Math (STEM) education);
- University access rate (percent of undergraduates with a Pell Grant);
- Graduate degrees awarded in areas of strategic emphasis (including STEM);

<sup>1</sup> Specific Appropriation 143, ch. 2014-51, L.O.F.

<sup>2</sup> Florida Board of Governors, *Meeting Minutes* (January 16, 2014), available at [http://www.flbog.edu/documents\\_meetings/0187\\_0790\\_5874\\_10.2.2%20BOG%202014\\_01\\_16\\_Board\\_of\\_Governors\\_minutes.pdf](http://www.flbog.edu/documents_meetings/0187_0790_5874_10.2.2%20BOG%202014_01_16_Board_of_Governors_minutes.pdf); see also Florida 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-April2015.pdf](http://www.flbog.edu/about/budget/docs/performance_funding/Overview-Doc-Performance-Funding-10-Metric-Model-Condensed-Version-April2015.pdf).

- Two additional metrics, one chosen by each of the following:
  - Board of Governors and
  - University Board of Trustees

The performance of state universities are evaluated based on the benchmarks adopted by the BOG for achievement of excellence or improvement in these specified metrics. The 2014-2015 GAA appropriated \$200 million for State University Performance Based Incentives, which included \$100 million in new funding and \$100 million redistributed from a proportionate share of each state university's base funds.<sup>3</sup> A state university that qualified for the new funding, also received its full base funding.<sup>4</sup> A state university that failed to meet the minimum performance threshold established by the BOG had a portion of its base funding withheld and was required to submit a performance improvement plan (plan) to the BOG.<sup>5</sup> The board was required to approve the plan and monitor the university's progress on implementing the performance measures specified in the plan.<sup>6</sup> Full base funding for a state university was restored upon the board's approval of the plan and progress monitoring reports.<sup>7</sup> Full base funding was not restored for a state university that fails to make satisfactory progress on meeting its performance improvement plan expectations.<sup>8</sup>

During the 2015A Special Session, the Legislature codified the SUS Performance-Based Incentive, which is based on indicators of institutional attainment of performance metrics adopted by the BOG.<sup>9</sup> These performance metrics include graduation rates, retention rates, postgraduation education rates, degree production, affordability, postgraduation employment and salaries, access, and other metrics approved by the board in a noticed meeting.<sup>10</sup> The Legislature instructed the BOG to adopt benchmarks to evaluate each state university's performance on the metrics to determine a state university's achievement of institutional excellence or need for improvement.<sup>11</sup> The 2015-2016 GAA appropriated \$400 million for the SUS Performance-Based Incentive, which included \$150 million for the state investment and \$250 million for the institutional investment.<sup>12</sup>

### ***Florida College System***

In the 2015-2016 Implementing Bill, the Legislature established the FCS Performance Based Incentive, which is based on indicators of institutional attainment of performance metrics adopted by the state board. These performance metrics include metrics that measure retention; program completion and graduation rates; job placement; and post-graduation employment, salaries, or further education. FCS institutions were evaluated for their performance, based on benchmarks adopted by the state board for achievement of excellence or improvement on the metrics. In the 2015-2016 GAA, the Legislature appropriated \$40 million for FCS performance,

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<sup>3</sup> Specific Appropriation 143, ch. 2014-51, L.O.F.

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

<sup>5</sup> *Id.*

<sup>6</sup> Specific Appropriation 143, ch. 2014-51, L.O.F.

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

<sup>8</sup> *Id.*

<sup>9</sup> Section 1001.92, F.S., as created by s. 14, ch. 2015-222, L.O.F.

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

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

<sup>12</sup> Specific Appropriation 138, ch. 2015-232, L.O.F.

including \$20 million in new funding and \$20 million redistributed from a proportionate share of each institution's base funds.<sup>13</sup>

### **Educator Liability Insurance Program**

The 2015-2016 Implementing Bill amended s. 1012.75, F.S., to require the Department of Education (department) to administer a liability insurance program to protect public school educators from liability for claims arising from incidents occurring while performing job responsibilities.<sup>14</sup> The program must provide coverage amounting to \$2 million to all full-time instructional personnel.<sup>15</sup> Part-time instructional personnel, administrative personnel, and student teachers participating in clinical field experience through a state-approved teacher preparation program may opt to receive liability coverage, at cost.<sup>16</sup>

The law required the department, by August 1, 2015, to notify eligible personnel of the pending procurement for liability coverage. In addition, the law required each school district, by September 1, 2015, to notify eligible personnel of the liability coverage using a postcard which included:

- The amount of the coverage;
- A general description of the nature of the coverage; and
- The contact information for coverage and claims questions.<sup>17</sup>

The law required each district school board to certify to the department, by September 15, 2015, that the district had provided the notification to the eligible personnel.<sup>18</sup>

The department must consult with the Department of Financial Services to select the “most economically prudent and cost-effective means of implementing the program through self-insurance, a risk management program, or competitive procurement.”<sup>19</sup>

These amendments to the educator liability insurance program will expire on July 1, 2016.

### **Preeminent State Research Universities**

The preeminent state research university program is a collaborative partnership between the BOG and the Legislature to elevate the academic and research preeminence of Florida's highest performing state research universities.<sup>20</sup> A state research university that meets at least 11 of the 12 academic and research excellence standards specified in law is designated as a preeminent state research university.<sup>21</sup>

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<sup>13</sup> Section 15, ch. 2015-222, L.O.F.

<sup>14</sup> See s. 1012.75(3), F.S., as amended by s. 10, ch. 2015-222, L.O.F.

<sup>15</sup> Section 1012.75(3)(a), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Section 1012.75(3)(b), F.S.

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

<sup>19</sup> Section 1012.75(3)(c), F.S.

<sup>20</sup> Section 1001.7065(1), F.S.

<sup>21</sup> *Id.* at (3).

The academic and research excellence standards are:<sup>22</sup>

- An average weighted grade point average of 4.0 or higher on a 4.0 scale and an average SAT score of 1800 or higher for fall semester incoming freshmen, as reported annually.
- A top-50 ranking on at least two well-known and highly respected national public university rankings, reflecting national preeminence, using most recent rankings.
- A freshman retention rate of 90 percent or higher for full-time, first-time-in-college students, as reported annually to the Integrated Postsecondary Education Data System (IPEDS).
- A 6-year graduation rate of 70 percent or higher for full-time, first-time-in-college students, as reported annually to the IPEDS.
- Six or more faculty members at the state university who are members of a national academy, as reported by the Center for Measuring University Performance in the Top American Research Universities (TARU) annual report.
- Total annual research expenditures, including federal research expenditures, of \$200 million or more, as reported annually by the National Science Foundation (NSF).
- Total annual research expenditures in diversified nonmedical sciences of \$150 million or more, based on data reported annually by the NSF.
- A top-100 university national ranking for research expenditures in five or more science, technology, engineering, or mathematics fields of study, as reported annually by the NSF.
- One hundred or more total patents awarded by the United States Patent and Trademark Office for the most recent 3-year period.
- Four hundred or more doctoral degrees awarded annually, as reported in the BOG Annual Accountability Report.
- Two hundred or more postdoctoral appointees annually, as reported in the TARU annual report.
- An endowment of \$500 million or more, as reported in the BOG Annual Accountability Report.

A preeminent state research university receives \$5 million in recurring funds annually, subject to appropriation in the GAA.<sup>23</sup> Currently, only the Florida State University and University of Florida meet the standards for preeminent state research university designation and are Florida's only two preeminent state research universities.<sup>24</sup>

### III. Effect of Proposed Changes:

This bill re-enacts and amends the FCS Performance-Based Incentive and the SUS Performance-Based Incentive, re-enacts 2015A Special Session amendments to the educator liability insurance program, and amends the preeminent state research universities program.

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<sup>22</sup> *Id.* at (2).

<sup>23</sup> Section 1001.7065, F.S.

<sup>24</sup> Florida Board of Governors, Strategic Planning Committee, Agenda Item 7, *Preeminent State Research University Benchmark Plans* (November 20, 2013) available at [http://www.flbog.edu/documents\\_meetings/0184\\_0752\\_5480\\_399%20SPC%20Packet.pdf](http://www.flbog.edu/documents_meetings/0184_0752_5480_399%20SPC%20Packet.pdf).

## **Performance-Based Funding**

### *State University System*

The bill re-enacts and modifies the SUS Performance-Based Incentive to:

- Require the performance-based metrics to include wage thresholds that reflect the added value of a baccalaureate degree.
- Require the BOG to establish minimum performance funding eligibility thresholds for the state's investment and the institutional investment.
- Prohibit a state university that fails to meet the state's investment performance funding threshold from eligibility to receive a share of the state's investment performance funding.

Additionally, the bill requires the BOG to adopt a regulation to implement the SUS Performance-Based Incentive statutory provisions.

### *Florida College System*

The bill re-enacts the FCS Performance-Based Incentive and requires the state board to adopt rules for its implementation. Specifically, the bill:

- Modifies the performance-based metrics to include metrics that measure: retention; program completion and graduation rates; postgraduation employment, salaries, and continuing education for workforce education and baccalaureate degree programs, with wage thresholds that reflect the added value of the certificate or degree; and outcome measures appropriate for associate degree recipients.
- Requires the state board to establish minimum performance funding eligibility thresholds for both the state's investment and the institutional investment.
- Specifies that any institution that does not meet the SBE's performance threshold for the state's investment is not eligible for a share of the state's investment in performance funding.
- Specifies that each institution's share of performance funding shall be calculated based on its relative performance on the established metrics, in conjunction with the institution's size and scope.
- Requires that any institution that fails to meet the SBE's performance threshold for the institutional investment shall have a portion of its institutional investment withheld and must submit an improvement plan to the state board which specifies activities and strategies for improving the institution's performance.
- Requires the SBE, by October 1 of each year, to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the previous fiscal year's performance funding allocation which must reflect the rankings and award distributions.

## **Educator Liability Insurance Program**

The bill re-enacts amendments made to the educator liability insurance program during the 2015A Special Session by eliminating the July 1, 2016, statutory expiration date. The program requires the department and each school district to provide annual notification of the \$2 million insurance coverage to eligible personnel. District school boards must annually certify to the department that the notification has been provided. In addition, the bill requires a district school

board providing clinical field experience to students in teacher preparation programs to notify the student electronically or in writing of the availability of educator liability insurance. Postsecondary educational institutions and district school boards are prohibited from requiring a student in a teacher preparation program to purchase liability insurance as a condition of participation in any clinical field experience or related activity on the premises of an elementary or secondary school.

During the 2015A Special Session, the Legislature adopted the substance of PCS/CS/SB 524 related to the SUS Performance-Based Incentive, the FCS Performance-Based Incentive, and the educator liability insurance program in ch. 2015-222, L.O.F., the implementing bill for the 2015-2016 GAA. These provisions will expire on July 1, 2016, unless the Legislature acts to codify the policy beyond the 2015-2016 fiscal year. PCS/CS/SB 524 protects these policies from repeal by reenacting modified provisions and providing an effective date of July 1, 2016.

### **Preeminent State Research Universities**

The bill modifies the academic and research excellence standards of the preeminent state research universities program by:

- Aligning the required average SAT score for incoming freshman with recent changes to the SAT examination scoring rubric;
- Specifying that the U.S. News and World Report rankings is one of the rankings that should be considered for the Top-50 Ranking requirement;
- Including the official membership directories maintained by each national academy (in addition to the Top American Research Universities (TARU) annual report) as a source for verification of recognition of faculty members in a national academy; and
- Including professional degrees awarded in medical and healthcare disciplines in the calculation of the number of doctoral degrees awarded annually.

Currently, each state university that meets at least 11 of the 12 academic and research excellence standards above is designated as a “preeminent state research university.” The bill requires the BOG to also designate each state university that meets at least six of the 12 academic and research excellence standards as an “emerging preeminent state research university.” However, the BOG may temporarily suspend or rescind the “preeminent” or “emerging preeminent” designation upon petition from a designated institution. The BOG may also revoke either designation of an institution with concurrence of the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill requires a state university that is designated as an “emerging preeminent state research university” to submit to the BOG a 5-year benchmark plan, with target rankings on key performance metrics for national excellence. Once approved by the BOG and upon the university meeting the benchmark goals annually, the BOG shall award the university its proportional share of any funds provided annually in the GAA to support the program.

The bill repeals the preeminent state research university enhancement initiative. This initiative authorizes additional funding for preeminent state research universities for the purpose of recruiting National Academy Members, providing a master’s degree in cloud virtualization, and instituting an enterprise in resident program, if funding was provided in the GAA. The bill also

repeals the preeminent state research university special course requirement authority. This authority allows preeminent state research universities to require incoming first time in college students to take a 9 to 12 credit set of unique courses specifically determined by the university.

Unless otherwise specified in the GAA, funding increases appropriated to support the program must be distributed equally to each designated “preeminent state research university” and each university designated as an “emerging preeminent state research university” shall receive an amount equal to one-half of the total increased amount awarded to each designated “preeminent state research university.”

**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:

None.

C. Government Sector Impact:

PCS/CS/SB 524 has no impact on state funds. All programs in the bill are contingent upon funding in the GAA. In the 2015-2016 fiscal year, the Legislature appropriated \$150 million for the state’s investment in the SUS Performance-Based Incentive, \$20 million for the state’s investment in the FCS Performance-Based Incentive, \$10 million for the preeminent state research universities program, and \$1.2 million for the educator liability insurance program.

**VI. Technical Deficiencies:**

None.



**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 1001.7065, 1001.92, 1012.39, and 1012.75.

This bill creates section 1001.66 of the Florida Statutes.

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

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

**Recommended CS/CS by Appropriations Subcommittee on Education on December 3, 2015:**

The committee substitute:

- Maintains provisions regarding state university performance funding.
- Re-enacts and amends the FCS Performance-Based Incentive.
- Modifies criteria for the preeminent state research university designation.
- Establishes an “emerging preeminent state research university” designation and establishes eligibility criteria.
- Re-enacts 2015A Special Session amendments to the educator liability insurance program.

**CS by Higher Education on November 17, 2015:**

The committee substitute restores current law regarding limiting to one fiscal year, the ability of state universities to submit performance improvement plans to the Florida Board of Governors of the State University System of Florida to receive institutional investment performance funding.

**B. Amendments:**

None.