

**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 Higher Education

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BILL: SB 1528

INTRODUCER: Senator Gibson

SUBJECT: Historically Black Colleges and Universities Matching Endowment Scholarship Trust Fund/DOE

DATE: February 13, 2018      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bouck</u>	<u>Graf</u>	<u>ED</u>	<u>Favorable</u>
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AHE</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 1528 creates the Historically Black Colleges and Universities (HBCU) Matching Endowment Scholarship Trust Fund (trust fund) within the Department of Education. The trust fund is established for use as a depository for funds to be used for purposes of the Historically Black Colleges and Universities Matching Endowment Scholarship Program. The bill specifies that moneys to be credited to the trust fund must consist of an appropriation from the Legislature and matching funds from participating HBCUs in the state.

The bill does not affect state revenues or expenditures.

The bill takes effect contingent upon, and concurrent with, passage of SB 1526, which takes effect July 1, 2018.

**II. Present Situation:**

**Trust Funds**

*Establishment of Trust Funds*

A trust fund may be created by law only by the Legislature and only if passed by a three-fifths vote of the membership of each house in a separate bill for that purpose only.<sup>1</sup> Except for trust funds being re-created by the Legislature, each trust fund must be created by statutory language that specifies at least the following:<sup>2</sup>

- The name of the trust fund.
- The agency or branch of state government responsible for administering the trust fund.

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<sup>1</sup> Section 215.3207, F.S.

<sup>2</sup> *Id.*

- The requirements or purposes that the trust fund is established to meet.
- The sources of moneys to be credited to the trust fund or specific sources of receipts to be deposited in the trust fund.

### ***Florida Constitution Requirement for Trust Funds***

The Florida Constitution requires that state trust funds must terminate not more than four years after the effective date of the act authorizing the initial creation of the trust fund.<sup>3</sup> The Legislature may set a shorter time period for which any trust fund is authorized.<sup>4</sup>

### ***Review of Trust Funds***

The Legislature must review all state trust funds at least once every 4 years.<sup>5</sup> Prior to the regular session of the Legislature immediately preceding the date on which any executive or judicial branch trust fund is scheduled to be terminated,<sup>6</sup> or such earlier date as the Legislature may specify,<sup>7</sup> the agency responsible for the administration of the trust fund and the Governor, for executive branch trust funds, or the Chief Justice, for judicial branch trust funds, must recommend to the President of the Senate and the Speaker of the House of Representatives whether the trust fund should be allowed to terminate or should be re-created.<sup>8</sup> Each recommendation must be based on a review of the purpose and use of the trust fund and a determination of whether the trust fund will continue to be necessary.<sup>9</sup> A recommendation to re-create the trust fund may include suggested modifications to the purpose, sources of receipts, and allowable expenditures for the trust fund.<sup>10</sup>

When the Legislature terminates a trust fund, the agency or branch of state government that administers the trust fund must pay any outstanding debts or obligations of the trust fund as soon as practicable.<sup>11</sup> The Legislature may also provide for the distribution of moneys in that trust fund. If no such distribution is provided, the moneys remaining after all outstanding obligations of the trust fund are met must be deposited in the General Revenue Fund.<sup>12</sup>

### **Historically Black Colleges and Universities**

The Higher Education Act of 1965, as amended, defines an Historically Black Colleges and University (HBCU) as: "...any historically black college or university that was established prior to 1964, whose principal mission was, and is, the education of black Americans, and that is accredited by a nationally recognized accrediting agency or association determined by the

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<sup>3</sup> Art. III, s. 19(f)(2), Fla. Const.

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

<sup>5</sup> Section 215.3208(1), F.S.

<sup>6</sup> Pursuant to Art. III, s. 19(f), Fla. Const.

<sup>7</sup> Section 215.3206(1), F.S.

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

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

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

<sup>11</sup> Section 215.3208(2)(a), F.S.

<sup>12</sup> *Id.* at (b).

Secretary [of Education] to be a reliable authority as to the quality of training offered or is, according to such an agency or association, making reasonable progress toward accreditation.”<sup>13</sup>

There are four HBCUs are located in Florida: Florida Agricultural and Mechanical University, Bethune-Cookman University, Edward Waters College, and Florida Memorial University.

### III. Effect of Proposed Changes:

The bill creates s. 20.151, F.S., to establish the Historically Black Colleges and Universities (HBCU) Matching Endowment Scholarship Trust Fund (trust fund) within the Department of Education. The trust fund is established for use as a depository for funds to be used for purposes of the Historically Black Colleges and Universities Matching Endowment Scholarship Program.<sup>14</sup> The Historically Black Colleges and Universities Matching Endowment Scholarship Program, created by SB 1526, will be administered by the Florida Department of Education (DOE) and will provide funds to participating Florida-based HBCUs for scholarships to enrolled students. The moneys credited to the trust fund must consist of an appropriation from the Legislature and matching funds from participating HBCUs in the state.

The bill requires that, in accordance with the State Constitution,<sup>15</sup> the trust fund must be terminated on July 1, 2022, unless terminated sooner. The bill also requires that, before its scheduled termination, the trust fund must be reviewed in accordance with law.<sup>16</sup>

The bill will take effect on the same date as SB 1526 if such legislation is enacted in the same legislative session, and becomes law. SB 1526 takes effect July 1, 2018.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

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

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<sup>13</sup> U.S. Department of Education, *What is an HBCU?* <https://sites.ed.gov/whhbcu/one-hundred-and-five-historically-black-colleges-and-universities/> (last visited Jan. 26, 2018).

<sup>14</sup> Established in Senate Bill 1526, which created section 1009.894, F.S.

<sup>15</sup> Art. III, s. 19(f), Fla. Const.

<sup>16</sup> Section 215.3206(1) and (2), F.S.

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

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

Section 2 of the bill does not specify the bill number of the companion bill. This section should be updated to reflect SB 1526, which creates the Historically Black Colleges and Universities Matching Endowment Scholarship Program, as the companion bill.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 20.151 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.)

None.

B. Amendments:

None.