

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EDC 16-03 Education

SPONSOR(S): Education Committee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee		Bishop	Mizereck

SUMMARY ANALYSIS

The bill maintains the following programs created in the 2015-2016 General Appropriations Act by:

- Requiring the Board of Governors (BOG) to adopt a regulation implementing the State University System 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. Likewise, any institution that fails to meet the threshold for the institutional investment will have its entire institutional investment withheld. The ability for a state university to submit an improvement plan to the BOG, in an effort to restore its institutional investment, is limited to one fiscal year.
- Requiring the State Board of Education (SBE) to establish, by rule, performance-based metrics for the Florida College System that must include 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. The SBE must establish 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. Each FCS institution's share of performance funding is calculated based on its relative performance on the established metrics in conjunction with the institution's size and scope.
- 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.
- Establishing, in law, the "Best and Brightest Teacher Scholarship Program" that provides \$10,000 to highly rated teachers who achieved certain ACT or SAT scores. Once a teacher is deemed eligible by the school district, including a teacher deemed eligible in the 2015-2016 fiscal year, the teacher remains eligible as long as he or she is employed by the school district and maintains a highly effective rating or, if a first-year teacher, is rated highly effective.

As part of the educator liability insurance program, the bill prohibits postsecondary educational institutions and school districts from requiring a student participating in a clinical field experience to purchase liability insurance as a condition of participation.

The bill also amends the Preeminent State Research Universities Program to require the Board of Governors 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."

See fiscal comments.

The bill is effective July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

State University System Performance-Based Incentive

Present Situation

During the 2012 Legislative Session, the Legislature adopted a performance funding model for the State University System (SUS) based on indicators of system and institutional attainment of performance expectations.¹ The Legislature appropriated SUS performance funding in the amount of \$15 million² in 2012, \$50 million³ in 2013, and \$200 million⁴ in 2014.

In 2014, the General Appropriations Act specified that performance funding (including \$100 million in new funding and \$100 million in funding redistributed from the base) be allocated based on the performance funding model adopted by the Board of Governors (BOG) on January 16, 2014.⁵ The BOG model is based on four guiding principles:⁶

- Use metrics that align with Strategic Plan goals;
- Reward excellence or improvement;
- Have a few clear, simple metrics; and
- Acknowledge the unique mission of the different institutions.

In 2015, the Legislature appropriated \$400 million in performance funding to the State University System to be allocated based on indicators of institutional attainment of performance metrics adopted by the Board of Governors as updated by the Board on November 6, 2015.⁷ The funds available for allocation to the universities based on the performance funding model consisted of the state's investment of \$150 million in performance funding plus an institutional investment of \$250 million to be redistributed from the base funding of the State University System.⁸ Currently, the SUS Performance-Based Incentive is scheduled to expire on July 1, 2016.

The Board of Governors Performance Funding Model contains ten performance metrics that evaluate the state universities on the following:⁹

- Percent of bachelor's degree graduates employed and/or continuing their education 1 year after graduation.
- Median average full-time wages of undergraduates employed in Florida 1 year after graduation.
- Average cost per undergraduate degree to the institution.
- Six year graduation rate (full-time and part-time First-Time-In-College).
- Academic progress rate (2nd 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).
- Institution-specific metrics, including:

¹ Section 1011.905, F.S.

² Specific Appropriation 129, Ch. 2012-118, L.O.F.

³ Specific Appropriation 142, Ch. 2013-40, L.O.F.

⁴ Specific Appropriation 143, Ch. 2014-51, L.O.F.

⁵ *Id.*

⁶ Florida Board of Governors, *Performance Based Funding: hearing before the House Higher Education & Workforce Subcommittee* (October 6, 2015).

⁷ Specific Appropriation 138, Ch. 2015-232, L.O.F.

⁸ *Id.*

⁹ Florida Board of Governors, *Performance Based Funding: hearing before the House Higher Education & Workforce Subcommittee* (October 6, 2015).

- Board of Governors choice.
- Board of Trustees choice .

Institutions receive scores on each metric based on the achievement of both excellence and improvement. The higher of the two scores for each metric is applied to the overall score for each institution. Any institution that fails to meet the Board's minimum performance funding threshold (a total score of less than 26 points) will not be eligible for the state's investment, will have a portion of its institutional investment withheld, and is required to submit an improvement plan that specifies the activities and strategies for improving its performance.¹⁰ A state university is limited to submitting an improvement plan for only one fiscal year.

Effect of Proposed Changes

The bill makes the State University System Performance-Based Incentive (Incentive) permanent by eliminating the July 1, 2016, statutory expiration date and requiring the Board of Governors to adopt a regulation. The bill modifies the Incentive by:

- Requiring the performance-based metrics to include wage thresholds that reflect the added value of a baccalaureate degree.
- Requiring the Board of Governors to establish minimum performance funding eligibility thresholds for both the state's investment and the institutional investment.
- Specifying that any institution that does not meet the BOG's performance threshold for the state's investment is not eligible for a share of the state's investment in performance funding.
- Requiring that any institution that fails to meet the BOG's performance threshold for the institutional investment shall have its entire institutional investment withheld (previous practice was to withhold a portion of the institutional investment).

Currently, the Incentive only allows an institution, in an effort to restore its institutional investment, to file an improvement plan with the BOG once during the fiscal year. This is consistent with the expiration of the Incentive each fiscal year. However, because the Incentive is made permanent by the bill, any university that falls below the minimum performance threshold in more than one fiscal year, will not be able to submit an improvement plan for restoration of its institutional (base funding) investment in subsequent years.

Florida College System Performance Funding

Present Situation

In the 2014 General Appropriations Act, the Legislature required the Commissioner of Education to, no later than December 31, 2014, recommend to the Governor, the President of the Senate and the Speaker of the House of Representatives a performance funding formula that may be used to allocate funds to Florida College System institutions.¹¹ The recommendations had to include up to 10 performance measures, appropriate performance benchmarks for each measure, and a detailed methodology for allocating performance funds to the colleges. More specifically, the measures were required to include, at a minimum, job placement rates, cost per degree, and graduation/retention rates. In addition, the performance benchmarks and allocation methodology was required to consider both effective performance and rates of improvement.¹²

The Commissioner's original performance funding recommendation included nine measures¹³: job placement/continuing education, completion rates, retention rates, entry level wages, time to degree, cost per degree, credit milestone attainment, Pell Grant completion rates, and one institution specific

¹⁰ Specific Appropriation 138, Ch. 2015-232, L.O.F.

¹¹ Specific Appropriation 126, Ch. 2014-51, L.O.F.

¹² *Id.*

¹³ State Board of Education, Board Meeting Action Item, *Approval of Performance Funding for the Florida College System* (July 23, 2015). Available at: <http://www.fldoe.org/contact-us/search.stml?q=performance+funding>

measure determined by the Board of Trustees.¹⁴ However, the 2015 Legislature appropriated \$40 million (\$20 million in new funding and \$20 million redistributed from the base) and required the State Board of Education (SBE) to allocate the funds based on a modified version of the Commissioner's recommended model, with measures limited to job placement, program completion and graduation rates, retention rates, and completer entry level wages.¹⁵

When the model was initially designed in 2014, all measures were worth 10 points, however, due to a realization that some data sources were less accessible than others, a decision was made by the State Board of Education to weigh some measures less than others. As a result, the measures relating to completion rates and retention rates have a maximum value of 10 points, the measure relating to job placement has a maximum value of 7.5 points, and the measure relating to entry level earnings has a maximum value of only 3 points (for a total of 30.5 possible points).¹⁶ Points are earned either by meeting an excellence benchmark, which compares colleges against each other on a particular measure, or by meeting an improvement benchmark, based on the college's prior performance. A college's performance is calculated by using the higher score of the excellence and improvement benchmark scores on each measure and then doubling them.¹⁷

The State Board of Education was required to establish minimum performance thresholds in a manner to ensure that not all colleges are eligible for new funding. All institutions eligible for new funding will have their base funding restored. Any institution that fails to meet the Board's minimum performance threshold will have a portion of its base funding withheld and must submit an improvement plan that specifies activities and strategies for improving the institution's performance. If upon monitoring the institution's progress in implementing its improvement plan, the Board determines that satisfactory progress has been made, the institution may have its base funding restored. Any institution that does not meet satisfactory progress as, determined by the SBE, may not have its full based funding restored.¹⁸

On July 23, 2015, the State Board of Education adopted the 2015-16 Florida College System Performance Funding Model which separated colleges into three categories based on their scores achieved on each measure. The seven colleges with the highest point total are placed into the Gold category. All of these colleges have their base funding restored and are eligible to receive a proportionate share of performance funds. In addition, Gold Colleges receive a proportionate share of the performance dollars that would have been allocated to the colleges in the Bronze category. Colleges whose total scores are above one standard deviation below the mean, are placed into the Silver category. Silver Colleges have their base funding restored and receive a proportionate amount of performance funding. Colleges whose total scores fall more than one standard deviation below the mean are placed into the Bronze category. Bronze Colleges are not eligible to receive new funding, have a percentage of their based funding withheld, and must submit an improvement plan to the State Board of Education. Upon showing progress in implementing the plan, Bronze Colleges may have their base funding restored.¹⁹

Effect of Proposed Changes

The bill requires the State Board of Education to adopt rules implementing the Florida College System Performance Based Incentive. The bill:

- Modifies the performance-based metrics to specifically include metrics that measure retention; program completion and graduation rates; postgraduation employment, salaries, and continuing

¹⁴ State of the Florida, *Legislative Bill Analysis for CS/CS/SB 948* (2015).

¹⁵ Specific Appropriation 122, Ch. 2015-232, L.O.F.

¹⁶ Florida Department of Education, *Florida College System Performance Funding: hearing before the House Higher Education & Workforce Subcommittee* (October 6, 2015).

¹⁷ *Id.*

¹⁸ Specific Appropriation 122, Ch. 2015-232, L.O.F.

¹⁹ State Board of Education, Board Meeting Action Item, *Approval of Performance Funding for the Florida College System* (July 23, 2015). Available at: <http://www.fldoe.org/contact-us/search.shtml?q=performance+funding>

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 of Education 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.
- 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.

Emerging Preeminence

Present Situation

In 2013, the Legislature created the Preeminent State Research Universities Program, a collaborative partnership between the Board of Governors (BOG) and the Legislature to raise the academic and research excellence and national preeminence of the highest performing state research universities in Florida.²⁰ The partnership was based on the March 24, 2010 State University System (SUS) Governance Agreement²¹ that affirmed the commitment of the BOG and the Legislature to continue collaboration on accountability measures, the use of data, and recommendations derived from such data.

Effective July 1, 2013, the following academic and research excellence standards were established for the preeminent state universities program²²:

1. 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 freshman, as reported annually.
2. A top 50 ranking on at least two well-known and highly respected national public university rankings, reflecting national preeminence, using most recent rankings.
3. A freshman retention rate of 90 percent or higher for full-time first-time-in-college students, as reported annually to the IPEDS.
4. A 6-year graduation rate of 70 percent or higher for full-time first-time-in-college students, as reported annually to the IPEDS.
5. Six or more faculty members at the state university who are members of a national academy, as reported annually by TARU annual report.
6. Total annual research expenditures, including federal research expenditures, of \$200 million or more, as reported annually by the NSF.
7. Total annual research expenditures in diversified nonmedical sciences of \$150 million or more, as reported annually by the NSF.

²⁰ Section 1001.7065, Florida Statutes.

²¹ Florida Legislature, *State University System Governance Agreement* (March 24, 2010); *See also* ch. 2010-78, L.O.F.; staff of the Florida House of Representatives, *Legislative Bill Analysis for 7237* (2010).

²² Section 1001.7065, Florida Statutes.

8. 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.
9. One hundred or more total patents awarded by the United States Patent and Trademark Office for the most recent 3-year period.
10. Four hundred or more doctoral degrees awarded annually, as reported in the BOG Annual Accountability Report.
11. Two hundred or more post-doctoral appointees annually, as reported in the TARU annual report.
12. An endowment of \$500 million or more, as reported annually by the BOG Annual Accountability Report.

The Board of Governors shall designate each state university that meets at least 11 of the 12 academic and research excellence standards above as a “preeminent state research university.”²³ Currently, the University of Florida and the Florida State University are designated as preeminent state research universities.

Effect of Proposed Changes

The bill modifies the academic and research excellence standards of the preeminent state research universities program in the following ways:

- Aligns the required average SAT score for incoming freshman with recent changes to the SAT examination scoring rubric;
- Specifies that the U.S. News and World Report rankings is one of the rankings that should be considered for the Top-50 Ranking requirement;
- Includes 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
- Includes 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 Board of Governors 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 Board of Governors may temporarily suspend or rescind the “preeminent” or “emerging preeminent” designation upon petition from a designated institution. The Board of Governors 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.

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.”

²³ Section 1001.7065, Florida Statutes.

Educator Liability Insurance Program

Present Situation

Legislation passed in 2015 requires the Department of Education to administer a liability insurance program to protect public school educators from liability for claims arising from incidents occurring while performing job responsibilities.²⁴ The program must provide coverage amounting to \$2 million to all full-time instructional personnel.²⁵ 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.²⁶

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.²⁷

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.²⁸

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.”²⁹

The law establishing the educator liability insurance program will expire on July 1, 2016.³⁰

Effect of Proposed Changes

The bill makes the educator liability insurance program permanent 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.

Best and Brightest

Present Situation

The 2015 General Appropriations Act (GAA) established the “Best and Brightest Teacher Scholarship Program” and appropriated \$44,022,483 to fund the program.³¹ Under the program, up to 4,402

²⁴ See s. 1012.75(3), F.S., as amended by s. 10, ch. 2015-222, L.O.F.

²⁵ Section 1012.75(3)(a), F.S.

²⁶ *Id.*

²⁷ Section 1012.75(3)(b), F.S.

²⁸ *Id.*

²⁹ Section 1012.75(3)(c), F.S.

³⁰ Section 1012.75(3)(d), F.S.

³¹ Specific Appropriation 99A, s. 2, ch. 2015-232, L.O.F.

teachers who are rated “highly effective”³² and who scored at or above the 80th percentile on either the SAT or the ACT at the time the assessment was taken can be provided a payment of \$10,000. First-year teachers who did not yet have an evaluation can qualify if they scored at or above the 80th percentile on the SAT or ACT at the time the assessment was taken.

To demonstrate eligibility for an award, an eligible teacher was required to submit to the school district, no later than October 1, 2015, an official record of his or her SAT or ACT score demonstrating that the teacher scored at or above the 80th percentile based upon the percentile ranks in effect when the teacher took the assessment.

By December 1, 2015, each school district, charter school governing board, and the Florida School for the Deaf and blind must submit to the department the number of eligible teachers who qualify for the award. By February 1, 2016, the department must disburse funds to each school district for each eligible teacher to receive the award. By April 1, 2016, each school district, charter school governing board, and the Florida School for the Deaf and the Blind must provide payment of the award to each eligible teacher. If the number of eligible teachers exceeds the total appropriated amount, then the department must prorate the per teacher award amount.³³

As of November 23, 2015, 25 school districts have submitted 913 teachers as eligible for the award.³⁴

Effect of Proposed Changes

The bill codifies the “Best and Brightest Teacher Scholarship Program” into law. The bill maintains the same criteria a teacher must meet to qualify for an award, requires the department to continue administering the program, and establishes deadlines for reporting qualifying teachers and disbursing award payments annually. Once a teacher is deemed eligible by the school district, including a teacher deemed eligible in the 2015-2016 fiscal year, the teacher remains eligible as long as he or she is employed by the school district and maintains a highly effective rating or, if a first-year teacher, is rated highly effective. The bill authorizes funding for the program as provided in the GAA beginning with the 2016-2017 school year.

B. SECTION DIRECTORY:

Section 1. Creates s. 1001.66, F.S., establishing the Florida College System Performance-Based Incentive.

Section 2. Amends s. 1001.7065, F.S., revising the criteria for the preeminent state research universities program and establishing the “emerging preeminent state research university” designation.

Section 3. Amends s. 1001.92, F.S., revising the State University System Performance-Based Incentive.

Section 4. Amends s. 1012.39, F.S., prohibiting postsecondary educational institutions and district school boards 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.

Section 5. Creates s. 1012.731, F.S., establishing the Best and Brightest Teacher Scholarship Program.

Section 6. Amends s. 1012.75, F.S., repealing expiration date of the educator liability insurance program.

³² As determined by the district evaluation system pursuant to s. 1012.34, F.S.

³³ Specific Appropriation 99A, s. 2, ch. 2015-232, L.O.F.

³⁴ Email, Florida Department of Education, Office of Governmental Relations (Nov. 23, 2015).

Section 7. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

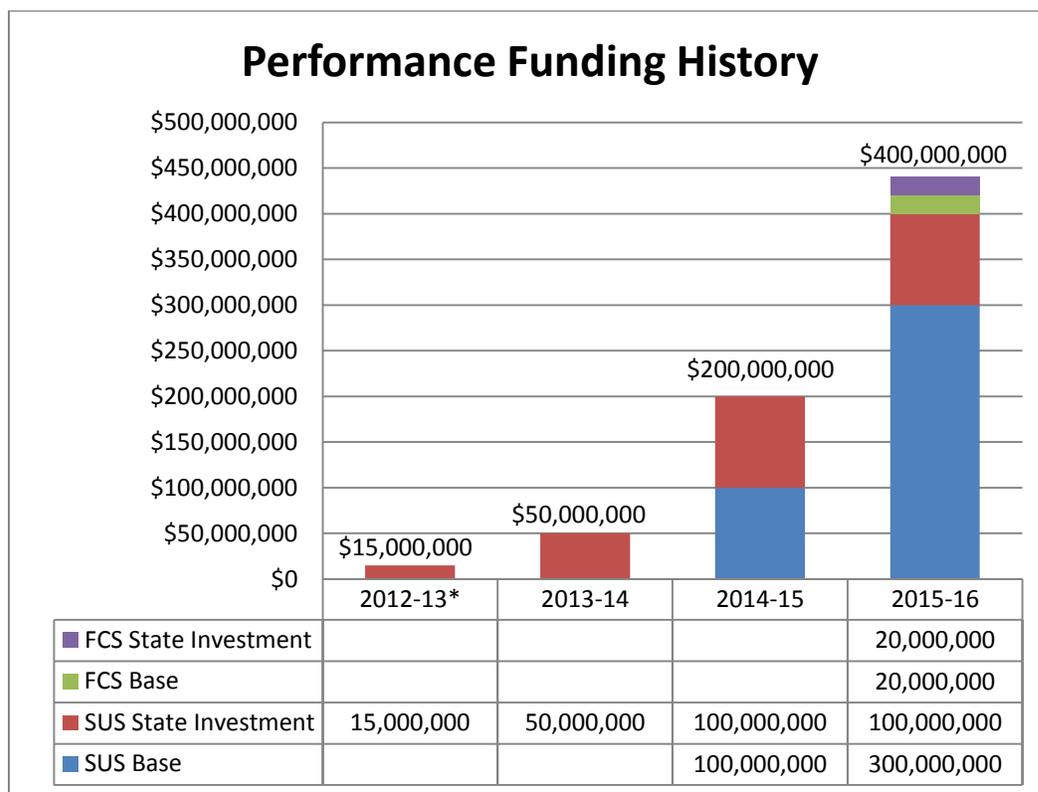
A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

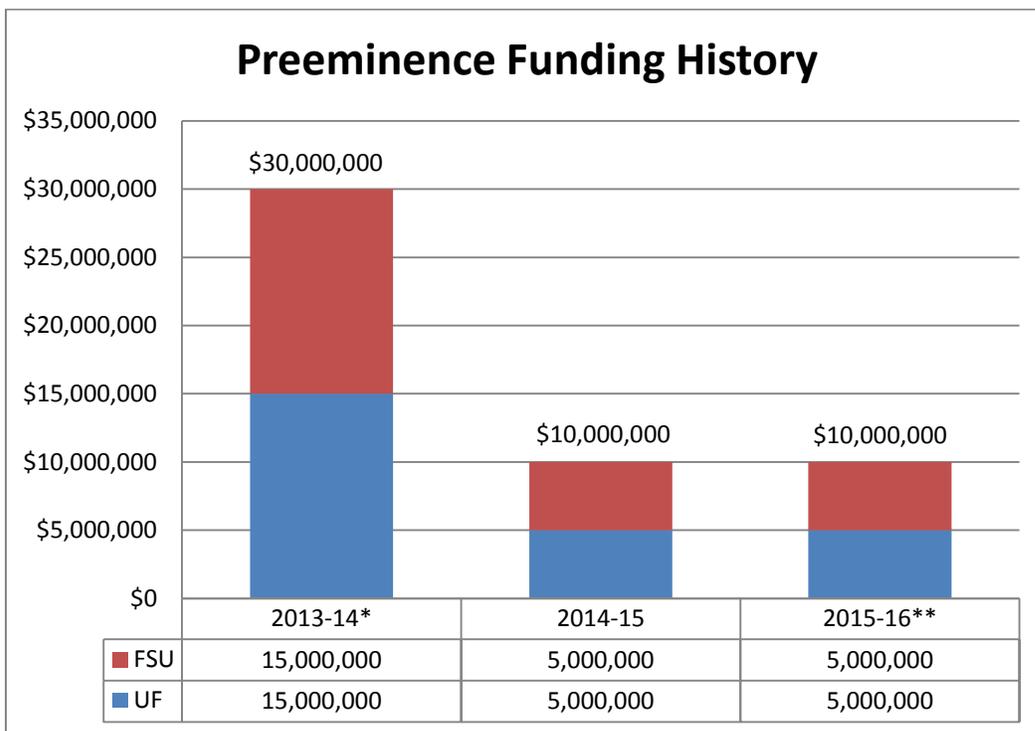
None.

2. Expenditures:

State University System Performance Funding, Florida College System Performance Funding, Preeminence and Emerging Preeminence funding are subject to appropriations in the General Appropriations Act. The legislature began appropriating general revenue for Performance Funding in Fiscal Year 2012-13; the state has invested a total of \$285,000,000 into Performance Based Funding for colleges and universities. The legislature began appropriating general revenue for Preeminent Universities (FSU and UF) in Fiscal Year 2013-14; the state has invested a total of \$50,000,000 into Preeminence Funding. The following charts show Performance Funding History and Preeminence Funding History.



*FY 2012-13 funds were nonrecurring



*In addition, UF received \$5 M for the Preeminent Institute for Online Learning.

** \$3.4 M of the \$5 M appropriated is nonrecurring.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The 2015-16 GAA provides \$1.2 million in recurring General Revenue for the Educator Liability Insurance Program.

The 2015-16 GAA provides \$44,022,483 in General Revenue, of which \$4,950,000 is recurring, for the Best and Brightest Teacher Scholarship Program. Under the program, up to 4,402 teachers who are rated “highly effective” and who scored at or above the 80th percentile on either the SAT or the ACT at the time the assessment was taken can be provided a payment of \$10,000. The number of teachers participating in the current year program is due to the Department of Education from each school district by December 1, 2015.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the State Board of Education to adopt rules to implement the Florida College System Performance-Based Incentive. The bill also requires the Board of Governors to adopt regulations to implement the State University System Performance-Based Incentive.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.