

STORAGE NAME: h2035z.cu
DATE: May 10, 2000

****FAILED TO PASS THE LEGISLATURE****

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
Colleges & Universities
FINAL ANALYSIS**

BILL #: HB 2035
RELATING TO: Postsecondary Education
SPONSOR(S): Representative Constantine
TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) COLLEGES & UNIVERSITIES YEAS 9 NAYS 0
 - (2) EDUCATION APPROPRIATIONS YEAS 11 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The Legislature established the Trust Fund for Major Gifts to fund endowments for the Eminent Scholar and Major Gift Challenge Grant Programs. The purpose of these programs is to provide an incentive for donors in the form of matching grants. Private contributions are matched by state funds based on the level of the private contribution. The donations and the matching grants must be invested with the proceeds of the investment used to support libraries and instruction and research programs.

HB 2035 revises the matching provisions for the Trust Fund for Major Gifts. Private contributions between \$100,000 and \$999,999 will be eligible for a 50% state match. Contributions between \$1,000,000 and \$2,999,999 will be eligible for a 60% match. Contributions of \$3,000,000 or more will be eligible for an 85% match. The amount of matching funds used to match a single gift in any year is capped at \$3 million. The total amount of matching funds available for any single gift will be limited to \$15 million, to be distributed in equal amounts of \$3 million per year over a period of 5 years, subject to availability of funds.

The bill establishes separate matching provisions for a state university and a community college that jointly endow a two-plus-two scholarship. A maximum of 50 scholarships per year are eligible for a match. Five scholarships per year will be reserved for each university until March 1. After March 1, any unmatched funds will be made available to universities and community colleges under procedures established by the Board of Regents and the State Board of Community Colleges.

The Board of Regents reports that applying the new percentages to 1998-1999 donations reduces the state matching dollars needed by 15 to 20 percent. The change in matching percentages should also allow matching funds to be spread over a larger number of gifts, encouraging more donors. Limiting the match per gift and the match per year on a single gift prevents one or two very large gifts from monopolizing the appropriation in any given year.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

TRUST FUND FOR MAJOR GIFTS

Statutory provisions relating to the Trust Fund for Major Gifts are found in s. 240.2605, F.S. The purpose of the trust fund is to enable the Board of Regents (BOR), each university, and New College to provide donors with an incentive in the form of matching grants for donations for the establishment of permanent endowments. The Major Gifts program was created by the 1985 Legislature and, in 1994, combined with the Florida Endowment Trust Fund for Eminent Scholars and the Trust Fund for New Donors resulting in the current program.

Current law requires that funds appropriated to the trust fund for the matching grants must be invested until the BOR allocates the funds to the universities to match private donations. Any undisbursed balance remaining in the trust fund and interest income accruing to the portion of the trust fund which is not matched and distributed to universities must remain in the trust fund and be used to increase the total funds available for challenge grants. The BOR may authorize a university to encumber the state matching portion of a challenge grant from the university's carry forward funds.

The BOR must specify the process for submission, documentation, and approval of requests for matching funds, accountability for endowments and proceeds of endowments, allocations to universities, restrictions on the use of proceeds from endowments, and criteria used in determining the value of donations. Standard procedures for evaluating and documenting eligibility of private donations submitted for state matching funds and for processing distribution made from the Trust Fund for Major Gifts are set forth in **CHANCELLOR'S MEMORANDUM CM-D-13.01-06/97**.

The provisions of s. 240.2605(3)(b), F.S., describe the formula that must be used to determine the state match a university or the BOR Foundation must receive for a private contribution. The current formula was adopted by the 1994 Legislature.

Level of Private Contribution

Matching Grant

At least \$100,000 but no more than \$599,000	50% of private contribution
At least \$600,000 but no more than \$1 million	70% of private contribution
In excess of \$1 million but no more than \$1.5 million	75% of private contribution
In excess of \$1.5 million but no more than \$2 million	80% of private contribution
In excess of \$2 million	100% of private contribution

While the same formula was used to allocate funds (for private contributions of \$600,000 or more) under the Eminent Scholars Program prior to the merger of that program with the Major Gifts Program in 1994, the use of funds from the Eminent Scholars Program was limited to the establishment of endowed chairs, which required approval of the Board of Regents. Prior to 1994, state law provided for a \$50,000 matching grant for each \$100,000 contributed by private sources to the Major Gifts program.

Current law requires the BOR to encumber state matching funds for any pledged contributions, pro rata, based on the requirement for state matching funds as specified for the particular challenge grant and the amount of the private donation actually received by the university for the respective challenge grant.

Each foundation must establish a challenge grant account for each challenge grant as a depository for private contributions and state matching funds to be administered on behalf of the university. State matching funds must be transferred to the university foundation upon notification that the university has received and deposited the amount specified in law in a foundation challenge grant account. The foundation is responsible for the maintenance and investment of its challenge grant account and for administration of the program on behalf of the university, pursuant to procedures specified by the BOR. Each foundation must include in its annual report to the BOR information concerning collection and investment of matching gifts and donations and investment of the account.

The donations and matching grants must be invested, with the proceeds of the investment used to support libraries and instruction and research programs. Rule 6C-9.019, F.A.C., provides that "support of libraries and instruction and research programs" includes, but is not limited to, staffing, equipment, supplies, books, subscriptions, monographs, binding, purchase of or access to technological resources such as computerized databases and other electronic media, and other legitimate expenditures in support of libraries; and expenditures for personnel, equipment, supplies and other legitimate purchases in support of the instruction and research programs with the recipient institution's mission. Donations, state matching funds, and proceeds from endowments established under the Major Gifts Program may not be expended for the construction, renovation, or maintenance of facilities or for the support of intercollegiate athletics. In 1985, expenditures were limited to endowed professorships and required prior approval by the BOR. The 1986 Legislature expanded the types of acceptable expenditures to include library resources, scientific and technical equipment, and scholarships other than athletic. The 1989 Legislature eliminated the requirement of prior approval by the BOR for expenditures. The 1990 Legislature removed the authority to use funds for library resources and scientific and technical equipment. Consequently between 1990 and 1994 acceptable expenditures were limited to endowed professorships and scholarships other than athletic.

Current law permits a donation of at least \$600,000 and associated state matching funds to be designated as an Eminent Scholar Endowed Chair.

Provisions of the 1999 Implementing Bill (ch. 99-228, L.O.F.) require university presidents, for the 1999-2000 year, to provide to the BOR a list of donations to be matched for the 1999-2000 Fiscal Year. The listing must contain an explanation of the donation, a

statement of the specific benefits accrued to the university as a result of the donation, and how the donation is consistent with the mission of the institution as defined by the BOR in the 1998-2003 Strategic Plan. University presidents are required to rank each private donation to their university, giving highest priority to private donations that provide additional library resources to universities; donations that provide student assistance through scholarships, fellowships, or assistantships; donations that provide funding for existing academic programs at universities; and donations that meet the matching requirement without encumbering pledges. The BOR, using the same criteria, must develop a systemwide priority list and may set restrictions on the annual amount of matching funds provided for single donations that exceed \$5 million.

Currently, all ten universities and the Board of Regents Foundation participate in the Major Gifts program. Information provided by the State University System (SUS) indicates that as of June 30, 1999 the SUS received 1,033 gifts totaling \$493,946,112 through the Major Gifts/Eminent Chairs programs. These gifts have resulted in the establishment of 388 professorships or chairs of which 227 are reportedly filled as well as additional support for libraries, institutes and centers, scholarships, fellowships, and other Instruction/Research activities. The total donations received through June 30, 1999 by each institution is as follows:

Institution	Total Donations
University of Florida	\$237,715,580
Florida State University	\$55,356,495
Florida A&M University	\$21,661,237
University of South Florida	\$78,718,912
Florida Atlantic University	\$32,898,578
University of West Florida	\$17,767,050
University of Central Florida	\$15,771,412
Florida International University	\$15,615,921
University of North Florida	\$13,890,917
Florida Gulf Coast University	\$3,550,000
Board of Regents	\$1,000,010

Information contained in Table 55 of the Senate Budget Committee Report, *Education in Florida -- 1999-2000 Edition*, indicates that during the period from 1979-1980 through 1999-2000, the Legislature appropriated \$277,459,758 to provide matching grants for the Eminent Scholars and Major Gifts programs. (Note: \$165.6 million of this amount is funding provided over the past 5 years) In addition, as of June 30, 1999 interest has accrued to the Major Gifts Trust Fund providing \$24,590,740 in additional funds for matching purposes.

According to the SUS, there has been growing concern in recent years that the success of the Major Gifts program could place it in jeopardy if some adjustments to the criteria for matching gifts are not made. Even though \$44.1 million was appropriated for FY 1999-2000, the SUS reports that it is \$24.5 million short of meeting cash requirements for matching gifts received in 1998-99. An additional \$9.4 million was requested to encumber funds received as partial payment of pledges for 1998-1999 resulting in a total outstanding obligation as of June 30, 1999 of \$33.9 million. The SUS projects that, at a minimum, \$86 million will be required to attain the break even point at July 1, 2000.

On October 5, 1999, the Chancellor of the State University System convened a meeting of legislators, major donors, foundation board chairs, university presidents, and university vice

presidents for development to discuss the major gifts program. An eleven member task force was appointed to study the issue and make recommendations to the Board of Regents and the Legislature as to changes that should be made to the program. The Task Force recommendations are as follows:

1. Place some controls on the program to assure its long-term existence.
2. Request a total of \$50 million in recurring funds and \$25 million in non-recurring funds for the matching gifts program to cover the backlog of gifts received but not matched as of July 1, 1999.
3. Prohibit encumbering.
4. Limit the amount of state dollars used to match a single gift in a given year to \$3 million.
5. Limit the total amount of match money for any single gift to \$15 million, a total of \$3 million per year for 5 years.
6. Limit bundling to programs that are pre-approved by the Board of Regents as being integral to the mission of the institution. The maximum allowed in a given project utilizing bundling would be \$500,000 with a 50% match. Projects currently underway should be grandfathered in under the existing criteria.
7. Permit family gifts given through family held vehicles (e.g., individual family members, a private foundation, or business interest). Do not define these types of gifts as bundling.
8. Use the 1998-1999 criteria to determine eligibility for matching gifts. Exclude the proviso and implementing bill language being utilized in Fiscal Year 1999-2000.
9. Revise the matching dollars formula to the following:

Contribution Level	Percentage of Match
\$100,000 - \$999,999	50%
\$1,000,000 - \$2,999,999	60%
\$3,000,000 or more	85%

Representatives of the SUS estimate that had the changes recommended by the task force been in place last year, the state required match would have been reduced by 15 - 20%. They suggest that the reduction would allow the remaining funds to be used to pay off, over several years, the backlog of gifts received and eventually to match a greater number of donations across all universities. They indicate that these changes should enable the Major Gifts matching program to continue as a great economic incentive for donations without eroding base level education and general funding for the universities operating budgets.

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Section 240.36, F.S. provides for the creation of the Dr. Philip Benjamin Academic Improvement Trust Fund for Community Colleges. The trust fund is to be used to encourage private support in enhancing public community colleges by providing the community college system with the opportunity to receive and match challenge grants. The trust fund is administered according to rules of the State Board of Community Colleges (SBCC). In addition to the 28 community colleges, the SBCC is eligible to participate in the matching grants program.

For each year in which there is a legislative appropriation to the trust fund, a minimum of \$25,000 must be reserved to permit each eligible entity an opportunity to match challenge grants. The balance of the funds must be available for matching by any eligible community college entity. Trust funds which remain unmatched by contribution on March 1 of any year must also be made available for matching by any community college. A community college may not receive more than its percentage of the FTE enrollment or 15 percent, whichever is greater of the funds appropriated to the trust fund for a given fiscal year. Likewise, the SBCC may not receive more than 15 percent of the funds appropriate to the trust fund for a given fiscal year.

A community college entity must place all funds it receives in excess of the first challenge grant and its matching funds in its endowment fund. Only the earnings on that amount may be spent for approved projects. A community college entity may spend the first challenge grant and its matching funds as cash for any approved project, except scholarships. If a community college entity proposes to use any amount of the grant or the matching funds for scholarships, it must deposit that amount in its endowment in its academic improvement trust fund and use the earnings of the endowment to provide scholarships.

C. EFFECT OF PROPOSED CHANGES:

The matching provisions for the Trust Fund for Major Gifts are revised. Contributions between \$100,000 and \$999,999 will be eligible for a 50% state match. Contributions between \$1,000,000 and \$2,999,999 will be eligible for a 60% match. Contributions of \$3,000,000 or more will be eligible for an 85% match. The amount of matching funds used to match a single gift in any given year is capped at \$3 million. The total amount of matching funds available for any single gift will be limited to \$15 million, to be distributed in equal amounts of \$3 million per year over a period of 5 years, subject to availability of funds.

The bill establishes separate matching provisions for a university and a community college that jointly endow a two-plus-two scholarship. The university will receive matching funds on the same basis as the community college under s. 240.36(3), F.S. To be eligible, the notification of receipt and deposit of private contributions must be submitted jointly by the community college and the university in increments of \$50,000, consisting of \$30,000 to the university from a single donor and \$20,000 to the community college. A maximum of 50 scholarships per year are eligible for a match. Five scholarships per year will be reserved for each university until March 1. After March 1, any unmatched funds will be made available to universities and community colleges under procedures established by the BOR and the SBCC.

The provision permitting the BOR to authorize a university to encumber the state matching portion of a challenge grant from carry forward funds is stricken.

Provisions relating to gifts received during fiscal year 1999-2000 are stricken.

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS.

2. Expenditures:

See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS.

D. FISCAL COMMENTS:

The BOR reports that applying the new percentages to the 1998-1999 donations reduces the required state matching dollars by 15 to 20%. The change in matching percentages should also allow matching funds to be spread over a larger number of gifts, encouraging more donors. Limiting the match per gift and the match per year on a single gift prevents one or two very large gifts from monopolizing the appropriation in a given year.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

With regard to jointly endowed two-plus-two scholarships, the Board of Regents and the State Board of Community Colleges must establish procedures to make unmatched funds available to universities and community colleges.

C. OTHER COMMENTS:

In July 1996 and August 1998, the Office of Program Policy Analysis and Government Accountability (OPPAGA) issued reports of that office's reviews of the Eminent Scholar and Major Gift Challenge Grant Programs. In the 1996 report, OPPAGA recommended that the Legislature amend s. 240.2605, F.S., to require university foundations to annually report fees charged for the management and administration of these endowments in sufficient detail to allow for review by the BOR. In the 1998 report, OPPAGA noted that while the recommended statutory change has not occurred, the Board of Regents does require, pursuant to **Chancellor's Memorandum CM D-13.01-06/97**, the reporting of administrative fees assessed by the university foundations.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 3, 2000, the Committee on Colleges & Universities adopted, without objection, an amendment to eliminate the current statutory provisions relating to the encumbering of state matching funds for pledged contributions.

VII. SIGNATURES:

COMMITTEE ON Colleges & Universities:

Prepared by:

Betty H. Tilton, Ph.D.

Staff Director:

Betty H. Tilton, Ph.D.

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AS REVISED BY THE COMMITTEE ON EDUCATION APPROPRIATIONS:

Prepared by:

Staff Director:

Robert S. Cox

John Newman

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON Colleges & Universities:

Prepared by:

Staff Director:

Betty H. Tilton, Ph.D.

Betty H. Tilton, Ph.D.