

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 930  
 SPONSOR: Education Committee and Senator Clary  
 SUBJECT: Florida School Improvement Academic Trust Fund  
 DATE: April 16, 2001      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	O'Farrell	ED	Favorable/CS
2.	_____	_____	AED	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This Committee Substitute creates the Florida School Improvement Academic Trust Fund in s. 236.12265, F.S., to be administered by the Department of Education.

This bill creates the following sections of the Florida Statutes: 236.12265

**II. Present Situation:**

In 1999, SB 602 repealed a number of apparently defunct trust funds, including s. 236.12295, F.S., a trust fund for district-based, public K-12 education purposes. The 1995 Legislature created that fund, but it had not received an appropriation since 1997.

**Similar trust funds and matching grant programs**

In current law, a number of somewhat similar trust funds or matching grant programs are established for educational purposes:

- The "Trust Fund for Major Gifts" is established in s. 240.2605, F.S., and serves as a repository for matching funds for universities.
- The "State Community College System Facility Enhancement Challenge Grant Program," established in s. 240.383, F.S., and the Community College Capital Facilities Matching Trust Fund, created in s. 240.3835, F.S., provide matching funds for educational purposes for community colleges.
- The "Dr. Philip Benjamin Academic Improvement Program for Community Colleges," established in s. 240.36, F.S., also serves community colleges with a matching grant program.

**Requirement for review and possible termination of trust fund; method of review**

Section 19(f)(2), of Article III of the Florida Constitution provides that:

*State trust funds ... shall terminate not more than four years after the effective date of the act authorizing the creation of the trust fund. By law the Legislature may set a shorter time period for which any trust fund is authorized.*

Section 215.3206, F.S. provides that prior to the regular session of the Legislature immediately preceding the date on which any trust fund is scheduled to be terminated, pursuant to the provisions of s. 19(f), Art. III of the State Constitution, the agency responsible for the administration of the trust fund and the Governor shall 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. Each recommendation shall 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. 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.

Recommendations from an agency shall be made as a part of the legislative budget request to the Legislature pursuant to s. 216.023. Recommendations from the Governor shall be made as part of the recommended budget presented to the Legislature pursuant to s. 216.162.

If the trust fund is terminated and not immediately re-created, all cash balances and income of the trust fund shall be deposited into the General Revenue Fund.

Section 215.3208, F.S., reiterates and elaborates on the constitutional requirement and method of review.

#### **Reversion of appropriated funds**

Section 216.301, F.S., provides, in part, that “*any balance of any appropriation, except an appropriation for fixed capital outlay, for any given fiscal year remaining after charging against it any lawful expenditure shall revert to the fund from which appropriated and shall be available for reappropriation by the Legislature.*”

#### **Requirement that a bill creating a trust fund shall be contained in a separate bill**

Section 19(f) of Article III of the Florida Constitution provides that no trust fund of the State of Florida or other public body may be created by law without a three-fifths (3/5) vote of the membership of each house of the legislature *in a separate bill for that purpose only*. This requirement is also contained in s. 215.3207, F.S., which also requires that 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:

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

### **III. Effect of Proposed Changes:**

This bill creates the Florida School Improvement Academic Trust Fund in s. 236.12265, F.S., to be administered by the Department of Education.

This bill is the separate bill required by Section 19(f) of Article III of the Florida Constitution, and it is linked with CS/SB 934,<sup>1</sup> which states how the fund will work.

The bill provides that, notwithstanding s. 216.301, F.S., any unused funds for any given fiscal year remaining after charging against it any lawful expenditure shall not revert to the fund (General Revenue) from which appropriated.

Pursuant to section 18 (f)(2), Article III of the Florida Constitution, and section 215.3206, F.S., the trust fund is scheduled to terminate on July 1, 2005, and must be reviewed prior to that date and could be reenacted prior to repeal. (*Technical correction is needed regarding the bill reference to s. 19 of the Constitution; the correct section of the Constitution should be 18*).

Neither this bill, nor SB 934, provides for an appropriation to supply the matching funds. That appropriation, if it is made, will be in the General Appropriations Act.

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

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

None.

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

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

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<sup>1</sup>CS/SB 934 contains provisions setting forth the purpose and administration of the Florida School Improvement Academic Trust Fund. That purpose of the fund is to provide each school district and the Florida School for the Deaf and Blind the opportunity to strengthen private/public partnerships by offering private donors the incentive of state matching funds for contributions that support the improvement of academic programs. Pursuant to that goal, HB 185 directs that the state "match" funding shall be sent directly to those non-profit, direct service foundations that obtain the private donations (i.e., district-based K-12 education foundations, created pursuant to s. 237.40, F.S., and the Florida School for the Deaf and Blind Endowment Fund).

**C. Government Sector Impact:**

The bill is “linked” to CS/SB 934, which creates a program to match state grants to private donations. The money is to be used for the improvement of academic programs in the K-12 public school system. The program’s successful operation depends upon money being appropriated by the General Appropriations Act to supply the matching funds.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.

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