

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA

ALEXIS S. GEFFIN and RYAN J. GEFFIN, individually
and on behalf of a proposed Student Class,

Plaintiffs,

CASE NO.

JURY TRIAL DEMANDED

vs.

GOVERNOR RICK SCOTT, in his official
capacity as Chief Executive Officer and Chair
of the Board of Education; JOE NEGRON,
in his official capacity as the Florida Senate
President; RICHARD CORCORAN,
in his official capacity as the Florida Speaker
of the House of Representatives;
FLORIDA STATE BOARD OF EDUCATION;
FLORIDA BOARD OF GOVERNORS OF THE STATE
UNIVERSITY SYSTEM; and PAM STEWART,
in her official capacity as Florida Commissioner
of Education,

Defendants.

CLASS ACTION COMPLAINT

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INTRODUCTION

1. Plaintiffs Alexis S. Geffin and Ryan J. Geffin, on behalf of a proposed Student Class, sue Governor Rick Scott and other officials and subdivisions of the State of Florida for renegeing on the State of Florida's obligations to request and appropriate money to match private donations to public colleges and universities—depriving Florida's colleges, universities, and students of over \$1 billion.

2. Four separate matching statutes require Defendants to match, through appropriations bills, private donations to colleges, universities, and their students for, among other things, facilities improvements, financial aid, and scholarships. Each of these statutes requires, absent a general revenue shortfall and to the extent matching will not cause a general revenue shortfall, matching private donations.

3. Defendants, by defunding the matching statutes through appropriations bills during years with large projected and realized budget surpluses, have violated the Florida Constitution. Article III, § 12 requires passing substantive legislation to amend each of the four matching statutes so that any amendments will be visible and open to debate in the Legislature, will require the Governor take a position on whether to veto the bill, and invite media and public scrutiny. Defendants failed to pass such substantive amendments, instead unconstitutionally using appropriations bills to defund the four matching statutes.

4. Rather than appropriate the over \$600 million in State funds owed, the Governor and the Legislature have spent general revenue surpluses on multibillion dollar tax cuts and to set aside billions in reserves.

5. The fact that students in Florida's colleges and universities have been harmed and are being harmed by this failure is established by the statements of Florida's elected leaders. Governor Scott has said, for example:

- “If you think about what we all should expect out of our higher ed[ucation], we should expect it’s affordable, so that all Floridians, whether they’re rich or poor, can go to our universities and state colleges.”¹
- “To maintain Florida’s spot as the top destination in the world for jobs and opportunities, we must continue to make the dream of earning a college education attainable for every student.”²
- “We know Florida families want the best value possible from our higher education system, which means we have to make advanced degrees more affordable.”³
- “It is incumbent upon state leaders to ensure the cost of higher education remains accessible to as many Floridians as possible.”⁴
- “Raising tuition is a tax on Florida families” and “[f]or many students, an increase in tuition means an increase in the debt burden they will carry.”⁵
- Increasing student loan payments “effectively kill the chance for many Florida families to live the American Dream.”⁶
- “We have budget surpluses. . . . We ought to be funding education.”⁷

6. In the latest round of budget negotiations, Governor Scott recognized the need to keep “higher education affordable for all Florida families” and emphasized the importance of Florida’s state and community college’s mission: ⁸

Each year, hundreds of thousands of students attend one of Florida’s 28 state colleges, which are consistently rated amongst the best in the country for

¹ Michael Vasquez, *Tuition Will Jump*, Miami Herald, June 21, 2012.

² Press Release, *Governor Scott Announces Proposed \$41 Million Tax Cut for College Textbooks—Savings of \$60 Per Student* (Jan. 22, 2015), <http://www.flgov.com/governor-scott-announces-proposed-41-million-tax-cut-for-college-textbooks-savings-of-60-per-student-2/>.

³ Press Release, *Governor Scott Applauds Higher Education Leaders’ Commitment to Hold the Line on Tuition* (Dec. 10, 2012), <http://www.flgov.com/governor-scott-applauds-higher-education-leaders-commitment-to-hold-the-line-on-tuition-2/>.

⁴ Letter from Governor Rick Scott to Secretary Ken Detzner 2 (May 20, 2013), <http://www.flgov.com/wp-content/uploads/2013/05/Message1.pdf>.

⁵ Press Release, *Governor Rick Scott’s Statement on University Tuition Action* (June 7, 2013), <http://www.flgov.com/governor-rick-scotts-statement-on-university-tuition-action-2/>.

⁶ Press Release, *Governor Rick Scott Calls Congress “Irresponsible” to Recess While Student Loan Rates Double* (July 1, 2013), <http://www.flgov.com/governor-rick-scott-calls-congress-irresponsible-to-recess-while-student-loan-rates-double-2/>.

⁷ *Bad Budget for Education Deserves Veto by Governor*, Palm Beach Post 10A (May 17, 2017).

⁸ Letter from Governor Rick Scott to Secretary Ken Detzner 1 (June 14, 2017), www.flgov.com/wp-content/uploads/2017/06/SB-374-Veto-Letter.pdf.

providing affordable access to higher education. For the last four years, we have held the line on tuition, keeping higher education affordable for all Florida families. Additionally, our State College system, as it currently functions, provides the flexibility and adaptability to respond to our communities' unique education and workforce needs. This legislation impedes the State College System's mission by capping the enrollment level of baccalaureate degrees and unnecessarily increasing red tape. This interference impedes the ability of state colleges to meet the needs of the communities and families they serve. In addition to this legislation, the total budget of the State College system was cut by \$24.7 million during the 2017 Regular Session.

7. While recognizing the importance to the State and its citizens of high quality public education at the undergraduate and graduate levels, Florida's elected officials have not publicly acknowledged that the State has defaulted on its obligations under the matching gifts statutes and claimed a degree of financial support for this critically important investment in the future that vastly overstates the State's contribution.

8. There was a period between 2007 and 2012 when economic circumstances allowed the State to defer its matching obligations. When Florida's economy rebounded, however, generating surpluses, it triggered the State's legal obligation to match the gifts previously made under the four matching gifts statutes. Instead of using its improved financial circumstances to meet its obligations, however, the State enacted multibillion dollar tax cuts and set aside billions in reserves. This abdicated the constitutional duty to make "[a]dequate provision" by law for institutions of higher learning "that the needs of the people may require." Art. IX, § 1, Fla. Const.

9. The Governor and the Legislature, through amendments to the four matching statutes in 2011, conceded that at that time the State's backlog of matching funds due to colleges and universities was over \$200 million. A June 21, 2011, Board of Education report and a Senate Bill Analysis conceded that the State's matching backlog was far more than \$200 million—about \$517 million. And the Higher Education Coordinating Council, created by Florida statute to

identify unmet needs in higher education, estimated that Florida's unpaid portion of the match through February 1, 2014 was over \$628 million.⁹

10. Last year, the Government Efficiency Task Force, created to improve government efficiency and reduce costs, explained that, in addition to the government money owed, private sums held in accounts and awaiting a match totaled over \$460 million.¹⁰

11. The Citizens of this State, acting through their votes, its Constitution, and its statutes, entrusted Defendants with the obligation to comply with Florida law, meet obligations under those laws and fund higher education to meet the needs of the next generation.¹¹

JURISDICTION AND VENUE

12. This Court has jurisdiction under Article V, section 5(b) of the Florida Constitution and Florida Statutes sections 26.012 and 86.011.

13. Venue is proper in this Court because Defendants officially reside in Leon County. *See* Fla. Stat. § 47.011.

⁹ Higher Educ. Coordinating Council of Fla., draft minutes of meeting (May 29, 2015), http://www.floridahighereducation.org/_doc_meetings/20150626/HECC-meeting-minutes-May-29-2015.pdf; Higher Educ. Coordinating Council of Fla., Recommendations on Florida College System and State University System Matching Grant Programs at 1 (May 29, 2015), *available at* http://www.floridahighereducation.org/_doc_meetings/20150529/FCS-SUS-Matching-Grants-Programs.pdf; Higher Educ. Coordinating Council of Fla., Recommendations on Florida College System and State University System Matching Grant Programs at 1 (June 26, 2016), http://www.floridahighereducation.org/_doc_meetings/20150626/FCS-SUS-Matching-Grant-Programs.pdf.

¹⁰ Final Report, Government Efficiency Task Force (June 30, 2016), <https://www.splcenter.org/sites/default/files/2016-getf-final-report.pdf>.

¹¹ All emphasis is added and citations and internal quotations are omitted, unless otherwise indicated. Numbers are rounded to the nearest hundred thousand unless otherwise indicated. The four matching statutes are (1) the Dr. Philip Benjamin Matching Grant Program for Florida College System Institutions, Fla., Stat. § 1011.85 (the "Benjamin College Scholarship Matching Statute"); (2) the Florida College System Facility Enhancement Challenge Grant Program, Fla. Stat. § 1011.32 (the "College Facility Enhancement Matching Statute"); (3) the University Major Gifts Program, Fla. Stat. § 1011.94 (the "University Major Gifts Statute"); and the (4) University Facility Enhancement Challenge Grant Program, Fla. Stat. § 1013.79 (the "University Facility Enhancement Matching Statute").

PARTIES

14. Plaintiff Alexis S. Geffin is a graduate of the University of Florida who was a Florida citizen and taxpayer while she attended the university. Alexis S. Geffin matriculated at the University of Florida in the summer of 2013 and graduated in 2017.

15. Plaintiff Ryan J. Geffin is a citizen, taxpayer, and a recent University of Florida graduate. Ryan J. Geffin attended the University of Florida beginning summer of 2012 and graduated in the spring of 2016. He currently resides in Broward County, Florida.

16. Plaintiffs Alexis and Ryan Geffin used, and would have benefited from improvements to, facilities throughout the University of Florida campus including the University of Florida's Computer Science Engineering building and the Harn Museum.

17. Defendant Rick Scott is the Governor of Florida vested with supreme executive power, and is the chief administrative officer responsible for the planning and budgeting for the State. Art. IV, § 1, Fla. Const. Scott is sued in his official capacity.

18. Defendant Joe Negron is the Senate President. The Senate President presides over the Florida Senate, which, along with the House of Representatives, establishes education policy, enacts education laws, and appropriates money to education. Art. III, § 2, Fla. Const.; Fla. Stat. § 1000.03 (2)(a). The Legislature must "make adequate provision by law for the establishment, maintenance, and operation of institutions of higher learning." Fla. Stat. § 1001.705(3). Negron is sued in his official capacity.

19. Defendant Richard Corcoran is the Speaker of the House of Representatives. The Speaker presides over the Florida House of Representatives, which, along with the Senate, establishes education policy, enacts education laws, and appropriates money to education. Art. III, § 2, Fla. Const.; Fla. Stat. § 1000.03(2)(a). The Legislature must "make adequate provision by law for the establishment, maintenance, and operation of institutions of higher learning." Fla. Stat. § 1001.705(3). Corcoran is sued in his official capacity.

20. Defendant Florida Board of Governors of the State University System has the duty to operate, regulate, control, and manage the publicly funded State University System. Art. IX, § 7(d), Fla. Const.; Fla. Stat. § 1001.705(2). It also must submit budget requests to the State Board of Education for legislative appropriations for the institutions under its supervision, including requests for fixed capital outlays. Fla. Stat. §§ 1001.705(2)(f), 1001.706(4)(b).

21. Defendant Florida State Board of Education is the chief implementing and coordinating body of public education in Florida. Art. IX, § 2, Fla. Const.; Fla. Stat. §§ 1001.01(1), 1001.02(1). The State Board of Education must submit to the Governor and Legislature a coordinated education budget that estimates the expenditures for the Board of Governors and the State Board of Education for the ensuing fiscal year. Fla. Stat. § 1001.02(2)(c).

22. Defendant Pam Stewart is the Commissioner of Education appointed by the Florida State Board of Education. The Commissioner of Education is the chief educational officer of the State and is responsible for giving full assistance to the State Board of Education in enforcing compliance with the mission and goals of the education system. Fla. Stat. §§ 1001.10(1–2). The Commissioner’s office is also responsible for strategic planning, budget development, general administration, assessment, and accountability. Fla. Stat. § 1001.10(2). Stewart issued in her official capacity.

SATISFACTION OF CONDITIONS PRECEDENT

23. All conditions precedent to filing this lawsuit have been satisfied. Administrative remedies are not available, and pursuing administrative remedies would be inadequate and futile. No administrative agency or subdivision has the power to award damages, appropriate money, or pay the money owed.

FACTS

A. Florida's College and University System

24. The Florida College System is a network of twenty-eight colleges and community colleges. The State Board of Education, under the Department of Education, manages the Florida College System.¹²

25. The Florida State University System includes twelve separate institutions across the state. The Board of Governors manages the State University System.¹³

B. The Four Matching Statutes and the Budget Process

26. In 1979, the Florida Legislature created the first challenge grants, later expanded to match private donations for scholarships, financial aid, and facilities improvements, which increased private donations and the funds available to students to use to attend Florida's colleges and universities.¹⁴

27. Florida led the country in implementing matching programs. From 1979 until December 2001, the matching gifts programs yielded \$726.9 million in private donations and \$490.5 million in additional state appropriations for universities for the benefit of university students. The community college matching programs generated \$182.8 million in private donations and \$118 million in additional state appropriations for the benefit of college students.¹⁵

28. Under the four separate matching statutes, detailed below, the Legislature enabled Florida public universities and colleges to solicit private donations on the basis that the State of Florida would match the donations.

¹² *About Us*, Fla. Department of Education, <http://www.fldoe.org/schools/higher-ed/fl-college-system/about-us/> (last visited Nov. 8, 2016).

¹³ *State University System of Florida—Universities*, State University System of Fla.: Board of Governors, <http://www.flbog.edu/universities/> (last visited Nov. 8, 2016).

¹⁴ Council for Educ. Policy Research & Improvement, *The Costs and Benefits of State Matching Funds for Community College and State University Private Donations* 7–9 (Dec. 2001).

¹⁵ *Id.* at i.

1. The Matching Statutes Mandate Appropriations absent a General Revenue Shortfall and to the Extent Matching Will Not Cause a General Revenue Shortfall

a. Benjamin College Matching Statute

29. The Benjamin College Scholarship Matching Statute created the “Dr. Philip Benjamin Matching Grant Program” principally dedicated toward scholarships and aid. Fla. Stat. § 1011.85(1, 11). It provides: “The program *shall be* administered according to the rules of the State Board of Education and *used to encourage private support in enhancing Florida College System institutions by providing the Florida College System with the opportunity to receive and match private grants.*” Fla. Stat. § 1011.85(1).

30. The statute provides: “Each Florida College institution board of trustees receiving state appropriations under this program shall approve each gift to assure alignment with the unique mission of the Florida College System institution. The board of trustees must link all requests for a state match to the goals and mission statement. The Florida College System Institution Foundation Board receiving appropriations under this program shall approve each gift to ensure alignment with its goals and mission statement.” Fla. Stat. § 1011.85(2).

31. It further states: “Each year, eligible contributions received by a Florida College System institution’s foundation or the State Board of Education by February 1 *shall be* eligible for state matching funds.” Fla. Stat. § 1011.85(4).

32. The Benjamin College Scholarship Matching Statute provides that “[t]he matching ratio for donations that are specifically designated to support scholarships, including scholarships for first generation-in-college students, student loans, or need-based grants *shall be* \$1 of state funds to \$1 of local private funds.” Fla. Stat. § 1011.85(6). The statute further provides that “[o]therwise, funds *shall be* proportionately allocated to the Florida College System institutions on the basis of matching each \$6 of local or private funds with \$4 of state funds” with a minimum requirement of raising \$4,500 in private funds. Fla. Stat. § 1011.85(6).

33. The statute contemplates that funds must be requested and appropriated for the match absent a general revenue shortfall and to the extent doing so will not cause a general revenue shortfall:

(8)(a) *Funds sufficient to provide the match shall be transferred from the state appropriations to the local Florida College System institution foundation or the statewide Florida College System institution foundation upon notification that a proportionate amount has been received and deposited by a Florida College System institution in its own trust fund.*

(b) *If state funds appropriated for the program are insufficient to match contributions, the amount allocated shall be reduced in proportion to its share of the total eligible contributions. However, in making proportional reductions, every Florida College System institution shall receive a minimum of \$75,000 in state matching funds if its eligible contributions would have generated an amount at least equal to \$75,000. All unmet contributions shall be eligible for state matching funds in subsequent fiscal years.*

Fla. Stat. § 1011.85(8)(a),(b).

b. College Facility Enhancement Matching Statute

34. The College Facility Enhancement Matching Statute states that the “Florida College System Institution Capital Facilities Matching Program *shall* provide funds to match private contributions for the development of high priority instructional and community-related capital facilities, including common areas connecting such facilities, within the Florida College System institutions.” Fla. Stat. § 1011.32(3).

35. It further states: “By October 15 of each year, the State Board of Education *shall* transmit to the Governor and Legislature a list of projects that meet all eligibility requirements to participate in the Florida College System Institution Facility Enhancement Challenge Grant Program and a budget request that includes the recommended schedule necessary to complete each project.” Fla. Stat. § 1011.32(8).

36. The statute further provides: “The legislature *shall appropriate* funds for distribution to a Florida College system institution after matching funds are certified by the

direct-support organization and Florida College Institution.” Fla. Stat. § 1011.32(4). The matching is 100 percent. Fla. Stat. § 1011.32(6).

37. The College Facility Enhancement Match Statute also contemplates, however, that in any given year there may be a shortfall in the state’s match: “If the state’s share of the required match is insufficient to meet the requirements of subsection (6), the Florida College System institution shall renegotiate the terms of the contribution with the donors. If the project is terminated, each private donation, plus accrued interest, reverts to the direct-support organization for remittance to the donor.” Fla. Stat. § 1011.32 (7).

c. University Major Gifts Matching Statute

38. The University Major Gifts Matching Statute establishes a University Major Gifts Program “to enable each university to provide donors with an incentive in the form of matching grants for donations for the establishment of permanent endowments and sales tax exemption matching funds received pursuant to § 212.08(5)(j), which must be invested, with the proceeds of the investment used to support libraries and instruction and research programs, as defined by the Board of Governors.” Fla. Stat. § 1011.94(1).

39. It further states: “The Board of Governors shall 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 the proceeds from endowments, and criteria used in determining the value of donations.” Fla. Stat. § 1011.94(2).

40. The University Major Gifts Matching Statute provides that “[d]onations for a specific purpose *must be matched*.” Fla. Stat. § 1011.94(3)(a).

d. University Facility Enhancement Matching Statute

41. The University Facility Enhancement Matching Statute established the “Alec P. Courtelis University Facility Enhancement Challenge Grant Program for the purpose of assisting

universities [to] build high priority instructional and research-related capital facilities.” Fla. Stat. § 1013.79(2).

42. The University Facility Enhancement Matching Statute provides: “By October 15 of each year, the Board of Governors shall transmit to the Legislature a list of projects that meet all eligibility requirements to participate in the Alex P. Courtelis University Facility Enhancement Challenge Grant Program and a budget request that includes the recommended schedule necessary to complete each project.” Fla. Stat. § 1013.79(8). “In order for a project to be eligible under this program, it must be included in the university’s 5-year capital improvement plan and must receive approval from the Board of Governors or the Legislature.” Fla. Stat. § 1013.79(9).

43. It further requires that the private contributions for fifty percent of a project “*shall be matched* by a state appropriation equal to the amount raised for a facilities construction project subject to the General Appropriations Act.” Fla. Stat. § 1013.79(6).

44. And it provides: “The legislature *may appropriate* the state’s matching funds in *one or more fiscal years* for the planning, construction, and equipping of an eligible facility.” Fla. Stat. § 1013.79(5).

2. The Matching Requirement is Consistent with Florida’s Budgeting Process

45. All four matching statutes contain mandatory language requiring requests to fund and funding absent a general revenue shortfall and to the extent funding will not cause a general revenue shortfall.

46. This is consistent with Florida’s constitutional requirement to balance its budget and, if there is a deficit, reduce appropriations each fiscal year. Art. VII, §1(d), Fla. Const.; Fla. Stat. § 216.221.

47. Florida's balanced budget begins with revenue forecasts used by the Joint Legislative Budget Commission to generate the constitutionally required Long-Range Financial Outlook by September 15. Art III, § 19 (c)(1), Fla. Const.; Fla. Stat. § 216.012.

48. By October 15, each agency submits a final budget request to the Legislature and the Governor reflecting the Long-Range Financial Outlook or explaining any variance from it. Art. III, § 19(a)(3), Fla. Const.; Fla. Stat. § 216.023.

49. Typically, at least thirty days before the scheduled annual legislative session, the Governor will provide his recommended budget to the Legislature. Fla. Stat. § 216.162(1). Both the Governor and the Legislature consider agency requests when developing their budgets, but neither is required to fund the agency requests fully.¹⁶

50. During the legislative session, the House and the Senate each pass a general appropriations bill. To resolve conflicts between those bills, the Speaker of the House and the President of the Senate appoint members of each chamber to produce a conference report and an appropriations bill that goes to the Governor.¹⁷

51. The Governor may then veto any specific appropriation. Art. III, §8(a), Fla. Const. After the Governor signs the appropriations bill, it along with any other acts containing appropriations make up the General Appropriations Act and approved operating budget for that fiscal year. Fla. Stat. § 216.181(1).

52. Funds are appropriated "based on *estimates* of revenue available at the time of the legislative session." But actual revenues collected may fall short of or exceed the revenue forecasts at any point during the fiscal year.¹⁸

¹⁶ John Legg, *OPI Pulse: Florida's Budget Process*, Office of Public Information, Mar. 28, 2011, <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?DocumentType=Press%20Release&FileName=272>.

¹⁷*Id.*

¹⁸ David Mulkey & Henry Cothran, *State General Revenues and Expenditures in Florida*, University of Florida Institute of Food and Agricultural Sciences, Dec. 2002, at 1, 2.

53. If there is a general revenue shortfall, the Florida Constitution requires “all necessary reductions in the state budget” to ensure that sufficient revenue exists to defray Florida’s expenses during that fiscal year and eliminate any deficit. Art. IV, §13, Fla. Const.; Art. VII §1(d), Fla. Const.; Fla. Stat. § 221.

54. A deficit in the general revenue fund occurs when the official consensus estimate of available general revenue funds—after adjustment to reflect actual revenues collected—falls below the total amount appropriated during a fiscal year. *See* Fla. Stat. § 216.222(1)(a). Such a deficit must be addressed by increasing income into general revenue or reducing spending.¹⁹

55. If the projected deficit exceeds 1.5 percent of the funds appropriated, then the deficit is resolved by the Legislature. Fla. Stat. § 216.221(6).

56. If the projected deficit is 1.5 percent or less, however, then the Governor and the Chief Justice of the Florida Supreme Court each provide plans of action to eliminate the deficit to the Joint Legislative Budget Commission and the Legislature. Fla. Stat. § 216.221(5)(a)(7). In developing those plans, the Governor and the Chief Justice must follow a set of guidelines outlined in § 216.221(5)(c). Those guidelines provide that education appropriations may only be reduced (1) in proportion to all other General Revenue Fund appropriations and (2) in proportion to each other. Fla. Stat. § 216.221(5)(c)(1); Fla. Stat. § 215.16(2). The deficit reduction plans are then implemented through amendments to the approved operating budget. Fla. Stat. § 216.181.

57. Thus, consistent with Florida’s balanced budget, Defendants the Florida State Board of Education and the Board of Governors of the State University System, with the assistance of Commissioner Stewart, must make requests to fund the matches and the Legislature must fund the requests absent a general revenue shortfall and to the extent funding will not cause a general revenue shortfall.

¹⁹ *Id.*

C. The Great Recession and Florida’s General Revenue Shortfalls

58. In January 2006, the Legislature’s Long-Range Financial Outlook estimated that there would be a surplus of \$3,481,100,000.²⁰

59. In 2007 the Florida economy severely declined as the housing market first slowed and then, in the third quarter of 2007, crashed. The negative economic environment severely impacted Florida’s revenue sources.

60. In the fall of 2007, the Legislature estimated multi-billion dollar general revenue shortfalls as the economic collapse devastated tax revenues. For the fiscal years from July 1, 2008 to June 30, 2012, the Legislature’s Long-Range Financial Outlooks estimated the following general revenue shortfalls:

| Fiscal Year | Projected Budget Shortfall |
|----------------------------|-----------------------------------|
| July 1, 2008–June 30, 2009 | \$ (2,345,000,000) |
| July 1, 2009–June 30, 2010 | \$ (3,306,300,000) |
| July 1, 2010–June 30, 2011 | \$ (2,654,400,000) |
| July 1, 2011–June 30, 2012 | \$ (2,510,700,000) ²¹ |

61. For the fiscal years from July 1, 2008 to June 30, 2012, actual general revenues were not large enough to erase the projected shortfalls.²²

D. The Governor and Legislature Admit an over \$200 Million Government Matching Backlog

62. In 2009, the four matching statutes were amended to require that donors be notified of a “*delay*” in the availability of state matching funds.²³

²⁰ Fla. S. Comm. on Ways and Means & Fla. Office Econ. & Demog. Res., Three Year Revenue and Expenditure Outlook Fiscal Year 2006–07 through 2008–09 at 7 (January 2006 update), *available at* http://www.edr.state.fl.us/Content/long-range-financial-outlook/3-Year-Plan_Fall-2006_0607-0809.pdf.

²¹ Fla. S. Comm. on Appropriations, Fla. H.R. Comm. on Appropriations, & Fla. Office Econ. & Demog. Res., Long-Range Financial Outlook Fiscal Years 2016-17 Through 2018-19 at 6 (Fall 2015), *available at* http://www.leg.state.fl.us/data/committees/joint/jlbc/Long%20RangeFinancialOutlook2016-17_1819.pdf.

²² *Id.* at 7.

63. In 2011, the four matching statutes were amended to add the following language: “Effective July 1, 2011, state matching funds are *temporarily suspended for donations received for this program on or after June 30, 2011*. Existing eligible donations remain eligible for future matching funds. The program may be restarted after \$200 million of the backlog for programs . . . have been matched.” *E.g.*, Fla. Stat. § 1011.85(13).

64. The *Tampa Bay Times* quoted a Senate sponsor of the 2011 amendments as saying: “Perhaps we need to say and be honest, that we’re not going to be able to pay this for a while. *We owe that money. We don’t want new people coming in and thinking they’ll get it right away.*”²⁴

65. As that Senate sponsor conceded, the 2011 amendments have no conceivable effect on the State’s obligation to match funds received before June 30, 2011.²⁵

66. And the “temporar[y] suspen[sion] for donations received . . . on or after June 30, 2011” was only a suspension for the duration of the general revenue shortfalls that precluded matching.²⁶

E. The Economy Recovers, but Florida Cuts Taxes by Billions While Still Failing to Match

67. For the fiscal years from July 1, 2012 to June 30, 2016, the Legislature’s Long-Range Financial Outlook estimated the following general revenue surpluses:

²³ *E.g.*, Fla. S. Journ. 371 (Reg. Session 2009).

²⁴ Jodie Tillman, *Tight Florida Budget Strands University Projects Awaiting Matching Grants*, *Tampa Bay Times* (Mar. 22, 2011) <http://www.tampabay.com/news/education/college/tight-florida-budget-strands-university-projects-awaiting-matching-grants/1158931>.

²⁵ Fla. S. Comm. on Budget, SB 2150 (Reg. Session 2011) Staff Analysis and Economic Impact Statement 12 (Apr. 1, 2011), *available at* <https://www.flsenate.gov/Session/Bill/2011/2150/Analyses/2011s2150.bc.PDF>.

²⁶ *Id.*

| Fiscal Year | Projected Budget Surplus |
|----------------------------|---------------------------------|
| July 1, 2012–June 30, 2013 | \$273,800,000 |
| July 1, 2013–June 30, 2014 | \$71,300,000 |
| July 1, 2014–June 30, 2015 | \$845,700,000 |
| July 1, 2015–June 30, 2016 | \$336,200,000 ²⁷ |

68. For the fiscal years from July 1, 2012 to June 30, 2016, actual general revenues exceeded those projections.²⁸ The Legislature’s latest Long-Range Financial Outlook estimated a surplus of \$635.4 million for the fiscal year starting July 1, 2016.²⁹

69. For the fiscal year from July 1, 2012 to June 30, 2013, Florida reduced general revenue by adopting tax cuts made available because of a “surplus” in State revenues over expenditures. Over a three year period it reduced taxes by more than \$2.5 billion.³⁰

70. In fact, had the State recognized that it had a financial obligation to fund the matching program, the “surplus” would have been considerably lower.

71. Instead of complying with its matching obligations, the State reduced general revenue funding to State colleges and universities, in the first year alone, by more than \$300 million.³¹

72. In the college system, from July 1, 2007, to June 30, 2013, Florida *student* spending on tuition increased from about \$545.2 million to \$872.5 million or, relative to state spending, from thirty-one percent to about forty-five percent:³²

²⁷ Fla. S. Comm. on Appropriations, Fla. H.R. Comm. on Appropriations, & Fla. Office Econ. & Demog. Res., Long-Range Financial Outlook Fiscal Years 2016-17 Through 2018-19 at 7 (Fall 2015).

²⁸ *Id.*

²⁹ *Id.* at 15.

³⁰ Pat Garofalo, *Florida Doles Out Billions in Corporate Tax Breaks While Slashing College Funding*, ThinkProgress (Mar. 13, 2012), <https://thinkprogress.org/florida-doles-out-billions-in-corporate-tax-breaks-while-slashing-college-funding-and-laying-off-66aa02df71fd#.c4iq1mj3e>.

³¹ *Id.*

³² The tuition is the amount paid by students; the state spending is composed of state trust fund revenues and state general revenues dedicated to colleges; dollars are in millions; percentages are rounded to the nearest whole number. Fla. S. Comm. on Appropriations, Fla. H.R. Comm. on Appropriations, & Fla. Office Econ. & Demog. Res., Long-Range Financial Outlook Fiscal Years

| | 2007-2008 | 2008-2009 | 2009-2010 | 2010-2011 | 2011-2012 | 2012-2013 |
|---|-----------|-----------|-----------|-----------|-----------|-----------|
| Tuition (in millions) | \$545.2 | \$632.3 | \$767.1 | \$855 | \$896 | \$872.5 |
| Total State Spending (in millions) | \$1217.7 | \$1057.3 | \$1051.6 | \$1120 | \$1027.6 | \$1066.2 |
| Tuition as a Percentage | 31% | 37% | 42% | 43% | 47% | 45% |

73. In the university system, from July 1, 2007 to June 30, 2013, Florida *student* spending on tuition increased from about \$963 million to about \$1.724 billion or, relative to state spending, by about 100 percent. In other words, student spending on tuition nearly doubled while state spending decreased by almost a billion dollars:³³

| | 2007-2008 | 2008-2009 | 2009-2010 | 2010-2011 | 2011-2012 | 2012-2013 |
|-------------------------------------|-----------|------------|-----------|-----------|-----------|------------|
| Tuition (in millions) | \$962.7 | \$1,022.1 | \$1,180.1 | \$1,303.7 | \$1,480.4 | \$ 1,724.4 |
| State Spending (in millions) | \$2,663 | \$ 2,289.4 | \$2,070 | \$2,172.6 | \$1,998 | \$1,731.3 |
| Tuition as a Percentage | 27% | 31% | 36% | 38% | 43% | 50% |

74. Overall, from fiscal year 2008 through fiscal year 2013, Florida *cut* higher education funding by over forty-one percent.³⁴ Those cuts compare to other states as follows:

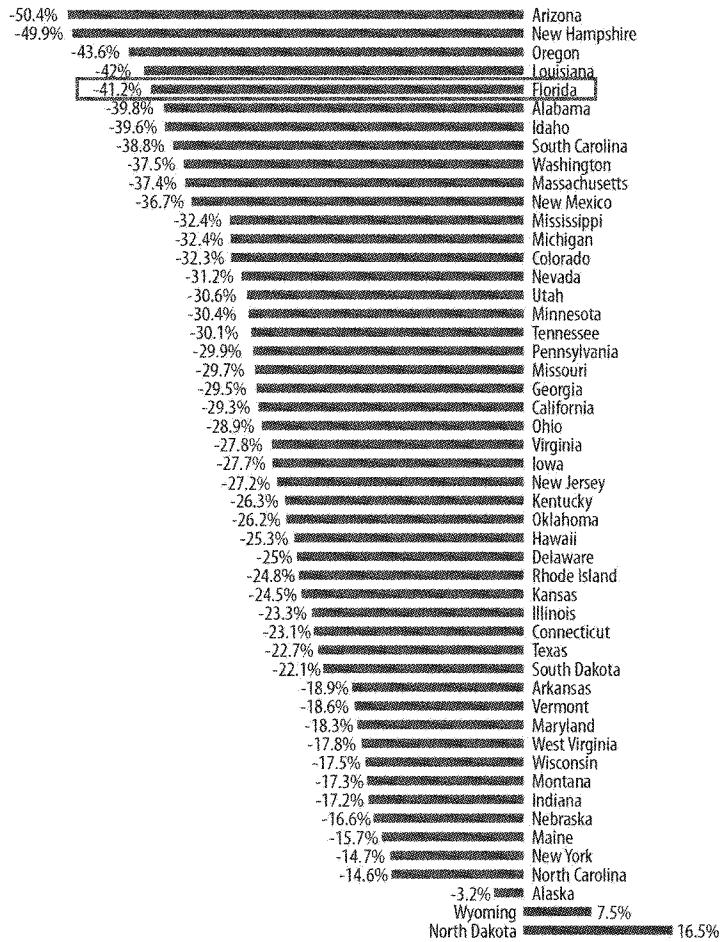
2014-15 through 2016-17 at 93 (Fall 2013), *available at* http://www.edr.state.fl.us/Content/long-range-financial-outlook/3-Year-Plan_Fall-2013_1415-1617.pdf.

³³ *Id.*

³⁴ Phil Oliff, Vincent Palacios, Ingrid Johnson, and Michael Leachman, *Recent Deep State Higher Education Cuts May Harm Students and the Economy for Years to Come* at 4, Center on Budget and Policy Priorities (Mar. 19, 2013), <http://www.cbpp.org/sites/default/files/atoms/files/3-19-13sfp.pdf>.

States Have Cut Higher Education Funding Deeply in Recent Years

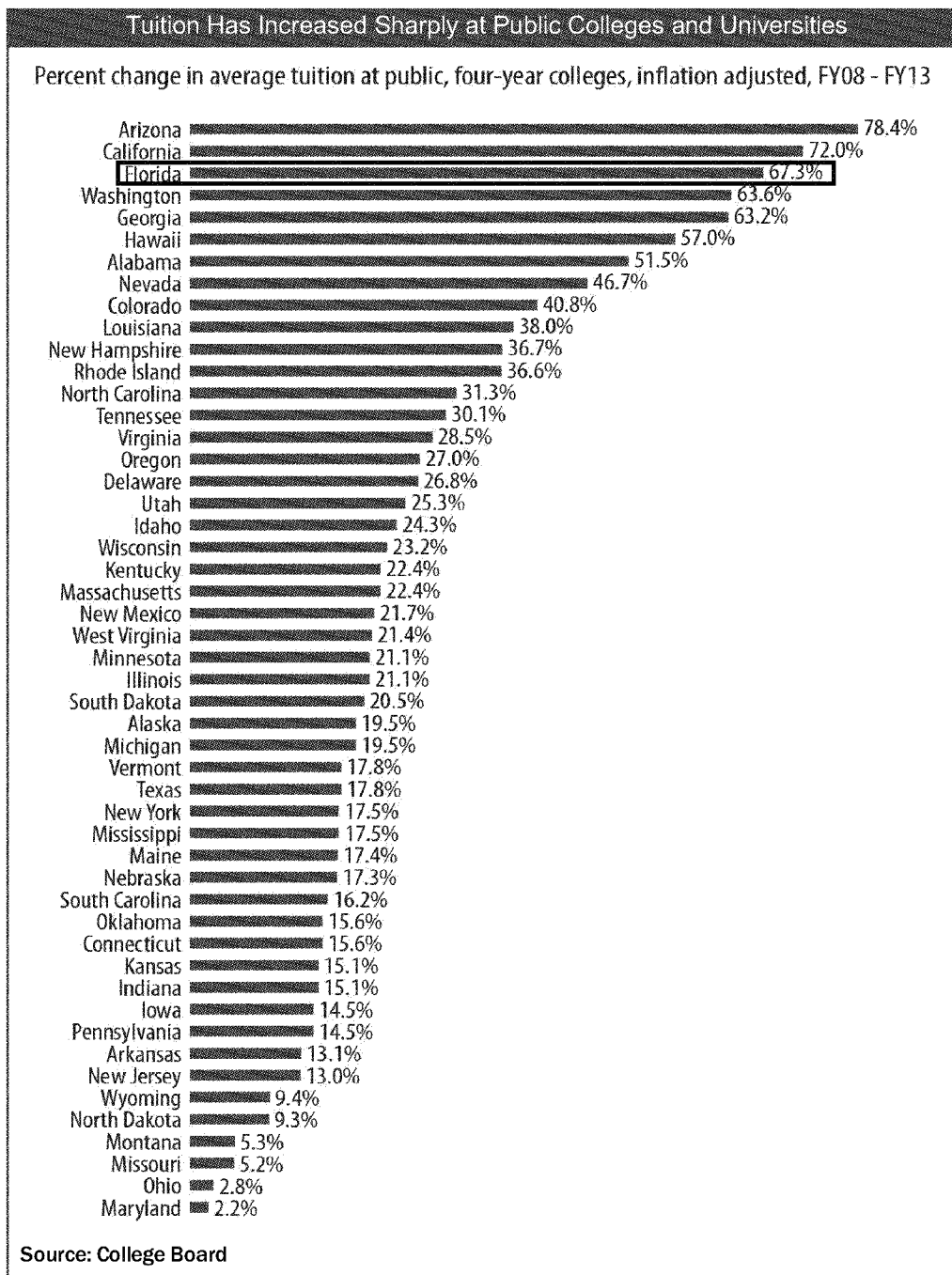
Percent change in state spending per student, inflation adjusted, FY08 - FY13



Source: CBPP calculations using data from Illinois State University's annual Grapevine Report. Illinois data is provided by the Fiscal Policy Center at Voices for Illinois Children. Because enrollment data is only available through the 2012 school year, the enrollment data for 2013 used in these calculations is estimated based on enrollment trends from past years.

75. Over that same period, the average tuition at Florida four-year institutions increased by over sixty-seven percent.³⁵ Those tuition increases compare to other states as follows:

³⁵ *Id.* at 9.



76. By the spring of 2016, compared to before the beginning of the Great Recession inflation-adjusted tuition at Florida’s four-year colleges and universities remained over sixty-four percent higher.³⁶

³⁶ Michael Mitchell, Michael Leachman, and Kathleen Masterson, *Funding Down, Tuition Up*, Center on Budget and Policy Priorities (May 26, 2016), <http://www.cbpp.org/research/state-budget-and-tax/funding-down-tuition-up>.

F. Defendants Have Breached the Obligation to Match Private Gifts

1. Colleges

a. Benjamin College Scholarship Matching Statute

77. From 2008 to 2017, donors wrote checks to public colleges and their foundations as either the payee or co-payee for aid, scholarships, or some combination.

78. For the fiscal year from July 1, 2008 to June 30, 2009, the Department of Education requested matching funds under the Benjamin College Scholarship Matching Statute of \$48.7 million.³⁷ The Governor's recommended budget allocated \$26.6 million under the Benjamin College Scholarship Matching Statute and the College Facility Enhancement Matching Statute.³⁸ The House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under the Benjamin College Scholarship Matching Statute.³⁹ The final General Appropriations Act allocated *no funds* to matching under that statute.⁴⁰

79. For the fiscal year from July 1, 2009 to June 30, 2010, the Department of Education requested *no funds* under the Benjamin College Scholarship Matching Statute.⁴¹ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.⁴² The final

³⁷ Fla. Dep't of Educ., Budget Request for Fiscal Year Starting July 1, 2008, at 402, *available at* <http://www.fldoe.org/core/fileparse.php/7601/urlt/0066650-0809obr.pdf>.

³⁸ Governor's Recommended General Appropriations (Fiscal Year 2008-09) at 25, <http://floridafiscalportal.state.fl.us/Document.aspx?ID=2331&DocType=PDF>.

³⁹ Fla. HB 5001 (as Introduced) (2009A); Fla. SB 2A (as Introduced) (2009A); Fla. SB 56A (as Introduced) (2009A); Conf. Comm. Rep. on Fla. SB 2A *available at* <http://public.lobbytools.com/index.cfm?type=bills&id=25317>.

⁴⁰ Fla. HB 5001 (as Enacted) (June 11, 2008); Fla. SB 2A (as Enacted) (Jan. 27, 2009).

⁴¹ Fla. Dep't of Educ., Expenditures by Issue and Category Amended (Oct. 15, 2008), *available at* <http://www.dc.state.fl.us/pub/LBR/2009/ExhibitD3a.pdf>.

⁴² Governor's Recommended General Appropriations (Fiscal Year 2009-10), <http://floridafiscalportal.state.fl.us/Document.aspx?ID=1118&DocType=PDF>; Fla. HB 5001 (as Introduced) (2009); Fla. HB 5001 (Engrossed) (2009); Fla. SB 2600 (First Engrossed) (2009); Fla. SB 2754 (2009).

General Appropriations Act allocated *no funds* to matching under that statute.⁴³

80. For the fiscal year from July 1, 2010 to June 30, 2011, the Department of Education requested \$39 million for community colleges under the Benjamin College Scholarship Matching Statute.⁴⁴ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee Report each allocated *no funds* to matching under that statute.⁴⁵ The final General Appropriations Act allocated *no funds* to matching under that statute.⁴⁶

81. For the fiscal year from July 1, 2011 to June 30, 2012, the Department of Education requested \$154 million under the Benjamin College Scholarship Matching Statute.⁴⁷ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.⁴⁸ The final General Appropriations Act allocated *no funds* to matching under that statute.⁴⁹

82. For the fiscal year from July 1, 2012 to June 30, 2013, the Department of Education requested \$176 million under the Benjamin College Scholarship Matching Statute.⁵⁰

⁴³ Fla. SB 2600 (as Enacted) (May 27, 2009).

⁴⁴ Fla. Dep't of Educ., Legislative Budget Request (Sept. 15, 2009) at 311, *available at* <http://www.fldoe.org/core/fileparse.php/7601/urlt/0066646-1011obr.pdf>.

⁴⁵ Governor's Recommended General Appropriations (Fiscal Year 2010-11), <http://floridafiscalportal.state.fl.us/Document.aspx?ID=2825&DocType=PDF>; Fla. HB 5001 (as Introduced) (2010); Fla. HB 5001 (First Engrossed) (2010); Fla. SB 2700 (as Introduced) (2010); Fla. SB 2700 (First Engrossed) (2010); Conf. Comm. Rep. on Fla. HB 5001 (2010), *available at* <http://archive.flsenate.gov/data/session/2010/House/bills/amendments/pdf/hb5001e1561933.pdf>.

⁴⁶ Fla. HB 5001 (as Enacted) (May 28, 2010).

⁴⁷ Fla. Dep't of Educ., Legislative Budget Request (Sept. 21, 2010) at 262, *available at* <http://www.fldoe.org/core/fileparse.php/7601/urlt/0066644-1112operatinglegislativebudgetrequest.pdf>.

⁴⁸ Governor's Recommended General Appropriations (Fiscal Year 2011-2012) <http://floridafiscalportal.state.fl.us/Document.aspx?ID=4483&DocType=PDF>; Fla. HB 5001 (as Introduced) (2011); Fla. HB 5001 (Engrossed) (2011); Fla. SB 2000 (2011) (as Introduced); Fla. SB 2000 (2011) (First Engrossed); Fla. SB 2000 (2011) (Second Engrossed); Fla. SB 2000 (2011) (Third Engrossed); Conf. Comm. Rep. on SB 2000 (2011), <https://www.flsenate.gov/Session/Bill/2011/2000/Amendment/500186/PDF>.

⁴⁹ Fla. SB 2000 (as Enacted) (May 26, 2011).

⁵⁰ Fla. Dep't of Educ., Legislative Budget Request (Aug. 23, 2011) at 254,

The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.⁵¹ The final General Appropriations Act allocated *no funds* to matching under that statute.⁵²

83. For the fiscal year from July 1, 2013 to June 30, 2014, the Department of Education requested matches for 36.7 percent of eligible private contributions, or \$64.7 million, under the Benjamin College Scholarship Matching Statute.⁵³ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.⁵⁴ The final General Appropriations Act allocated *no funds* to matching under that statute.⁵⁵

84. For the fiscal year from July 1, 2014 to June 30, 2015, the Department of Education requested *no funds* under the Benjamin College Scholarship Matching Statute.⁵⁶ The Governor's recommended budget, the House's budget bills, the Senate's Committee report, and the Conference budget bill each allocated *no funds* to matching under that statute.⁵⁷ The final

<http://www.fldoe.org/core/fileparse.php/7601/urlt/0066642-greenbook.pdf>.

⁵¹ Governor's Recommended General Appropriations (Fiscal Year 2012-13), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled "Fiscal Year" select "2012-13"); Fla. HB 5001 (as Introduced) (2012); Fla. HB 5001 (as Engrossed) (2012); Fla. SB 2000 (as Introduced) (2012); Fla. SB 2000 (as Engrossed) (2012); Conf. Comm. Rep. on Fla. HB 5001 (2012) *available at* <https://www.flsenate.gov/Session/Bill/2012/5001/Amendment/657521/PDF>.

⁵² Fla. HB 5001 (as Enacted) (Apr. 17, 2012).

⁵³ Fla. Dep't of Educ., Legislative Budget Request (Oct. 9, 2012) at 228-29, *available at* <http://www.fldoe.org/core/fileparse.php/7601/urlt/0066640-1314olbr.pdf>.

⁵⁴ Governor's Recommended General Appropriations (Fiscal Year 2013-14), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled "Fiscal Year" select "2013-14"); Fla. HB 5001 (as Introduced) (2013); Fla. HB 5001, (as Engrossed) (2013); Fla. SB 1500 (as Introduced) (2013); Conf. Comm. Rep. on Fla. SB 1500 (2013), <https://www.flsenate.gov/Session/Bill/2013/1500/Amendment/590582/PDF>.

⁵⁵ SB 1500 (as Enacted) (May 20, 2013).

⁵⁶ Fla. Dep't of Educ., Legislative Budget Request (Sept. 17, 2013), *available at* <http://www.fldoe.org/core/fileparse.php/7601/urlt/0066639-1415lbr.pdf>.

⁵⁷ Governor's Recommended General Appropriations (Fiscal Year 2014-15), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled "Fiscal Year" select "2014-15"); Fla. HB 5001 (as Introduced) (2014); Fla. HB 5001 (First Engrossed) (2014); Fla. SB 2500, as Introduced (2014); Fla. SB 2500 (First Engrossed) (2014);

General Appropriations Act allocated *no funds* to matching under that statute.⁵⁸

85. For the fiscal year from July 1, 2015 to June 30, 2016, the Department of Education requested *no funds* under the Benjamin College Scholarship Matching Statute.⁵⁹ The Governor’s recommended budget, the House’s budget bills, the Senate’s budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.⁶⁰ The final General Appropriations Act allocated *no funds* to matching under that statute.⁶¹

86. For the fiscal year from July 1, 2016 to June 30, 2017, the Department of Education requested *no funds* under the Benjamin College Scholarship Matching Statute.⁶² The Governor’s recommended budget, the House’s budget bills, the Senate’s budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.⁶³ The final General Appropriations Act allocated *no funds* to matching under that statute.⁶⁴

87. For the fiscal year from July 1, 2017 to June 30, 2018, the Department of Education requested *no funds* under the Benjamin College Scholarship Matching Statute.⁶⁵ The

Conf. Comm. Rep. on Fla. HB 5001 (2014)
<https://www.flsenate.gov/Session/Bill/2014/5001/Amendment/783953/PDF>.

⁵⁸ Fla. HB 5001 (as Enacted) (June 2, 2014).

⁵⁹ Fla. Dep’t of Educ., Legislative Budget Request (Sept. 29, 2014), *available at* <http://www.fldoe.org/core/fileparse.php/5444/urlt/0071224-green.pdf>.

⁶⁰ Governor’s Recommended General Appropriations (Fiscal Year 2015-16), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled “Fiscal Year” select “2015-16”); Fla. HB 1A (2007); Fla. HB 5001 § 2 (as Introduced) (2016); Fla. SB 2500 (2016); Fla. SB 2500A (2015A); Conf. Comm. Rep. on Fla. SB 2500A (2015A) <https://www.flsenate.gov/Session/Bill/2015A/2500A/Amendment/234572/PDF>.

⁶¹ SB 2500A (as Enacted) (June 23, 2015).

⁶² Fla. Dep’t of Educ., Legislative Budget Request (Oct. 15, 2015), *available at* <http://www.fldoe.org/core/fileparse.php/7601/urlt/FY1617Greenbook.pdf>.

⁶³ Governor’s Recommended General Appropriations (Fiscal Year 2016-17), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled “Fiscal Year” select “2016-17”); Fla. HB 5001 (as Introduced) (2016); Fla. SB 2500 (as Introduced) (2016); SB 2500 (First Engrossed) (2016); Conf. Comm. Rep. on Fla. HB 5001 (2016) *available at* <https://www.flsenate.gov/Session/Bill/2016/5001/Amendment/212343/PDF>.

⁶⁴ Fla. HB 5001 (as Enacted) (Mar. 17, 2016).

⁶⁵ Fla. Dep’t of Educ., Legislative Budget Request (Sept. 30, 2016), *available at* www.fldoe.org/core/fileparse.php/18330/urlt/greenbook.pdf.

Governor’s recommended budget, the House’s budget bills, the Senate’s budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.⁶⁶ The final General Appropriations Act allocated *no funds* to matching under that statute.⁶⁷

88. The following chart summarizes the amounts the Department of Education requested, the Governor included in his recommended budget, the House and Senate included in its budget bills and the Conference Committee reports, and the amounts appropriated in the General Appropriations Act for the foregoing fiscal years under the Benjamin College Scholarship Matching Statute:

| | DOE Request | Governor’s Recommended Budget | House, Senate Bills, Committee Report | General Appropriations Act |
|-------------------------------|--------------------|--------------------------------------|--|-----------------------------------|
| July 1, 2008 to June 30, 2009 | \$48.7 M | \$26.6 M ⁶⁸ | \$0 | \$0 |
| July 1, 2009 to June 30, 2010 | \$0 | \$0 | \$0 | \$0 |
| July 1, 2010 to June 30, 2011 | \$39 M | \$0 | \$0 | \$0 |
| July 1, 2011 to June 30, 2012 | \$154 M | \$0 | \$0 | \$0 |
| July 1, 2012 to June 30, 2013 | \$176 M | \$0 | \$0 | \$0 |
| July 1, 2013 to June 30, 2014 | \$64.7 M | \$0 | \$0 | \$0 |
| July 1, 2014 to June 30, 2015 | \$0 | \$0 | \$0 | \$0 |
| July 1, 2015 to June 30, 2016 | \$0 | \$0 | \$0 | \$0 |
| July 1, 2016 to June 30, 2017 | \$0 | \$0 | \$0 | \$0 |
| July 1, 2017 to June 30, 2018 | \$0 | \$0 | \$0 | \$0 |

⁶⁶ Governor’s Recommended General Appropriations (Fiscal Year 2017-18), <http://www.floridafirstbudget.com/web%20forms/OtherInfo/reports/Governors-Bill.pdf> Fla. HB 5001; Fla. HB 5003; Fla. SB 2500; Fla. SB 2502; Conf. Comm. Rep. on Fla. SB 2500 (2017), available at <https://www.flsenate.gov/Session/Bill/2017/2500/Amendment/764844/pdf>; Conf. Comm. Rep. on Fla. SB 2502 (2017), available at <https://www.flsenate.gov/Session/Bill/2017/2502/Amendment/740600/pdf>.

⁶⁷ Fla. SB 2500 (as Enacted) (June 5, 2017).

⁶⁸ The Governor’s recommended budget allocated this amount for both the Benjamin College Scholarship Matching Statue and the College Facility Enhancement Matching Statute combined.

b. Facility Enhancement Matching Statute

89. For the fiscal year from July 1, 2008 to June 30, 2009, the Department of Education requested \$53.8 million under the Facility Enhancement Matching Statute.⁶⁹ The Governor's recommended budget allocated \$26.6 million under the Benjamin College Scholarship Matching Statute and the College Facility Enhancement Matching Statute.⁷⁰ The House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under the Facility Enhancement Matching Statute.⁷¹ The final General Appropriations Act allocated *no funds* to matching under that statute.⁷²

90. For the fiscal year from July 1, 2009 to June 30, 2010, the Department of Education requested \$56 million under the Facility Enhancement Matching Statute and then amended the request and asked for *no funding* under that statute.⁷³ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.⁷⁴ The final General Appropriations Act allocated *no funds* to matching under that statute.⁷⁵

⁶⁹ Fla. Dep't of Educ., 2008-2009 Fixed Capital Outlay Legislative Budget Request Florida K-20 Education System (Oct. 16, 2007) at 63, *available at* <http://www.fldoe.org/core/fileparse.php/7601/urlt/0066651-0809fcobr.pdf>.

⁷⁰ Governor's Recommended General Appropriations (Fiscal Year 2008-09) at 25, <http://floridafiscalportal.state.fl.us/Document.aspx?ID=2331&DocType=PDF>

⁷¹ Fla. HB 5001A (as Introduced) (2009A); Fla. SB 2A (as Introduced) (2009A); Fla. SB 56A (as Introduced) (2009A); Conf. Comm. Rep. on Fla. SB 2A (2009A).

⁷² Fla. HB 5001 (as Enacted) (June 11, 2008); Fla. SB 2A (as Enacted) (Jan. 27, 2009).

⁷³ Fla. Dep't of Educ., Expenditures by Issue and Category Amended (Oct. 15, 2008), *available at* <http://www.dc.state.fl.us/pub/LBR/2009/ExhibitD3a.pdf>.

⁷⁴ Governor's Recommended General Appropriations (Fiscal Year 2009-10), <http://floridafiscalportal.state.fl.us/Document.aspx?ID=1118&DocType=PDF>; Fla. HB 5001 (as Introduced) (2009); Fla. HB 5001 (Engrossed) (2009); Fla. SB 2600 (First Engrossed) (2009); Fla. SB 2754 (2009); Conf. Comm. Rep. on SB 2600 (2009) *available at* <http://static.lobbytools.com/bills/2009/pdf/AS26001003.pdf>.

⁷⁵ Fla. SB 2600 (as Enacted) (May 27, 2009).

91. For the fiscal year from July 1, 2010 to June 30, 2011, the Department of Education requested \$12.6 million under the Facility Enhancement Matching Statute.⁷⁶ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* under that statute.⁷⁷ The final General Appropriations Act allocated *no funds* to matching under that statute.⁷⁸

92. For the fiscal year from July 1, 2011 to June 30, 2012, the Department of Education requested \$64.7 million under the Facility Enhancement Matching Statute.⁷⁹ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.⁸⁰ The final General Appropriations Act allocated *no funds* to matching under that statute.⁸¹

93. For the fiscal year from July 1, 2012 to June 30, 2013, the Department of Education requested \$69.2 million under the Facility Enhancement Matching Statute broken down as follows:⁸²

⁷⁶ Fla. Dep't of Educ., 2010-2011 Fixed Capital Outlay Legislative Budget Request (Sept. 15, 2009) at 311, *available at* <http://www.fldoe.org/core/fileparse.php/7601/urlt/0066647-1011fcobr.pdf>.

⁷⁷ Governor's Recommended General Appropriations (Fiscal Year 2010-11), <http://floridafiscalportal.state.fl.us/Document.aspx?ID=2825&DocType=PDF>; Fla. HB 5001 (as Introduced) (2010); Fla. HB 5001 (First Engrossed) (2010); Fla. SB 2700 (as Introduced) (2010); Fla. SB 2700 (First Engrossed) (2010); Conf. Comm. Rep. on Fla. HB 5001 (2010), *available at* <http://archive.flsenate.gov/data/session/2010/House/bills/amendments/pdf/hb5001e1561933.pdf>.

⁷⁸ Fla. HB 5001 (as Enacted) (May 28, 2010).

⁷⁹ Fla. Dep't of Educ., 2011-2012 Fixed Capital Outlay Budget Request (Sept. 21, 2010) at 3. *available at* <http://www.fldoe.org/core/fileparse.php/7601/urlt/0066645-1112fixedcapitaloutlaylegislativebudgetrequest.pdf>.

⁸⁰ Governor's Recommended General Appropriations (Fiscal Year 2011-2012) <http://floridafiscalportal.state.fl.us/Document.aspx?ID=4483&DocType=PDF>; Fla. HB 5001 (as Introduced) (2011); Fla. HB 5001 (Engrossed) (2011); Fla. SB 2000 (2011) (as Introduced); Fla. SB 2000 (2011) (First Engrossed); Fla. SB 2000 (2011) (Second Engrossed); Fla. SB 2000 (2011) (Third Engrossed); Conf. Comm. Rep. on SB 2000 (2011) *available at* <https://www.flsenate.gov/Session/Bill/2011/2000/Amendment/500186/PDF>.

⁸¹ Fla. SB 2000 (as Enacted) (May 26, 2011).

⁸² *E.g.*, Fla. Dep't of Educ., 2012-2013 Fixed Capital Outlay Budget Request (Aug. 23, 2011), at 24, 27, *available at* <http://www.fldoe.org/core/fileparse.php/7601/urlt/0066643-1213fixedcapitaloutlaylegislativebudgetrequest.pdf>.

| FLORIDA COLLEGE SYSTEM Facility Enhancement Challenge Grant Program Fiscal Year 2012-13 Legislative Budget Request | | | |
|--|---|----------------------|-----------------------|
| COLLEGE | PROJECT | PROJECT TYPE | TOTAL FUNDS REQUESTED |
| BREVARD | No request | | \$ 0 |
| BROWARD | Ren/Rem Marine Center of Excellence - Miramar Auto-Marine | Renovation/Equip | \$ 125,037 |
| CENTRAL FLORIDA | Levy County Center - Levy Center (pce) | New Const/Equip | \$ 1,668,060 |
| CENTRAL FLORIDA | Citrus County Campus Classroom Building - Citrus (pce) | New Const/Equip | \$ 1,591,500 |
| CHIPOLA | No request | | \$ 0 |
| DAYTONA | Rem/Ren/Add Buildings 220 & 810 - Daytona Campus | Rem/Ren/Add/Equip | \$ 157,403 |
| DAYTONA | Clock Tower Plaza - Daytona (pce) | New Const/Equip | \$ 172,882 |
| DAYTONA | DSC/FSU School of Medicine/Campus Renewal -Daytona (pce) | New Const/Equip | \$ 250,000 |
| DAYTONA | Hospitality/Tourism Building - Daytona Campus (pce) | New Const/Equip | \$ 2,434,938 |
| EDISON | Allied Health Sciences & Classroom - Collier Campus (pce) | New Const/Equip | \$ 2,000,000 |
| FL ST COLLEGE AT JAX | Institute for Food Safety - Downtown (pce) | New Const/Equip | \$ 1,000,000 |
| FL ST COLLEGE AT JAX | Academic Health Building - North Campus (pce) | New Const/Equip | \$ 1,090,000 |
| FL KEYS | No request | | \$ 0 |
| GULF COAST | Major Ren Health Science - Const Addl Student Stations - Main | New Const/Equip | \$ 91,667 |
| HILLSBOROUGH | No request | | \$ 0 |
| INDIAN RIVER | Voc-Tech/Career Pathways Center - Main Campus (pce) | New Const/Equip | \$ 1,000,000 |
| INDIAN RIVER | Science, Technology, Engineering, Mathematics Bldg - Main (pce) | New Const/Equip | \$ 1,000,000 |
| FL GATEWAY (Lake City) | No request | | \$ 0 |
| LAKE-SUMTER | Joint-use Library - South Lake Center (pce) | New Const/Equip | \$ 1,564,465 |
| SCF, MANATEE SARASOTA | Medical Technology & Simulation Bldg - Lakewood Ranch Ctr (pce) | New Const/Equip | \$ 712,518 |
| MIAMI DADE | Land and Facilities Acquisition/Construction - Collegewide (pce) | Site/New Const/Equip | \$ 22,882,201 |
| MIAMI DADE | Classroom, Student Union, Support Facility - Wolfson (pce) | New Const/Equip | \$ 1,000,000 |
| NORTH FL | No request | | \$ 0 |
| NORTHWEST FLORIDA | Community Services Complex - Niceville Campus (pce) | New Const/Equip | \$ 3,405,636 |
| PALM BEACH | Education Training Ctr - Belle Glade Campus (pce) | New Const/Equip | \$ 484,456 |
| PASCO-HERNANDO | Wesley Chapel Center (pce) - Wesley Chapel | New Const/Equip | \$ 342,578 |
| PENSACOLA | Classroom Building - Pensacola (pce) | New Const/Equip | \$ 1,047,600 |
| PENSACOLA | Conference Center (Building 8) - Pensacola | New Const/Equip | \$ 1,750 |
| POLK | Advanced Global Tech Ctr - Bartow (pce) | New Const/Equip | \$ 14,500,000 |
| ST. JOHNS RIVER | No request | | \$ 0 |
| ST. PETERSBURG | Natural Habitat Park & Site Improvements - Seminole Campus | Const/Equip/Site Imp | \$ 100,000 |
| ST. PETERSBURG | Ren/Rem District Office Building - EpiCenter | Ren/Rem/Equip | \$ 10,000 |
| ST. PETERSBURG | Orthotics & Prosthetics Bldg, Equip & Site Imp. - Health Ed Ctr (pce) | Const/Equip/Site Imp | \$ 8,450 |
| ST. PETERSBURG | Ren/Rem Palladium Bldg - St. Petersburg/Gibbs Campus | Ren/Rem/Equip | \$ 300 |
| ST. PETERSBURG | Rem/Ren/Add Student Services Bldg - St. Petersburg/Gibbs | Rem/Ren/Add/Equip | \$ 26,500 |
| ST. PETERSBURG | Ren/Rem Annex 2 Building - EpiCenter | Ren/Rem/Equip | \$ 2,000,000 |
| SANTA FE | Fine Arts Facility - Main Campus (pce) | New Const/Equip | \$ 1,083,718 |
| SANTA FE | Blount Center Expansion Project (pce) | New Const/Equip | \$ 1,000,000 |
| SEMINOLE | No request | | \$ 0 |
| SOUTH FLORIDA | Rem/Ren/Add Fine Arts Facility - Main Campus | Rem/Ren/Add/Equip | \$ 828,922 |
| TALLAHASSEE | Ghazvini Health Education Center (pce) | New Const/Equip | \$ 446,272 |
| VALENCIA | Library & High Tech Classrooms - Osceola Campus (pce) | New Const/Equip | \$ 5,181,896 |
| TOTAL | | | \$ 69,208,749 |

94. For the fiscal year from July 1, 2012 to June 30, 2013, the Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under the Facility Enhancement Matching

Statute.⁸³ The final General Appropriations Act allocated *no funds* to matching under that statute.⁸⁴

For the fiscal year from July 1, 2013 to June 30, 2014, the Department of Education requested matches for thirty-seven percent of the eligible private contributions, or \$25.4 million, under the Facility Enhancement Matching Statute as follows:⁸⁵

| FLORIDA COLLEGE SYSTEM Facility Enhancement Challenge Grant Program Total Eligible Private Contributions | | | |
|--|--|----------------------|-----------------------|
| COLLEGE | PROJECT | PROJECT TYPE | TOTAL FUNDS REQUESTED |
| BREVARD | No request | | \$ 0 |
| BROWARD | Ren/Rem Marine Center of Excellence - Miramar Auto-Marine | Renovation/Equip | \$ 125,037 |
| CENTRAL FLORIDA | Levy County Center - Levy Center (pce) | New Const/Equip | \$ 1,668,060 |
| CENTRAL FLORIDA | Citrus County Campus Classroom Building - Citrus (pce) | New Const/Equip | \$ 1,591,500 |
| CHIPOLA | No request | | \$ 0 |
| DAYTONA | Rem/Ren/Add Buildings 220 & 810 - Daytona Campus | Rem/Ren/Add/Equip | \$ 157,403 |
| DAYTONA | Clock Tower Plaza - Daytona (pce) | New Const/Equip | \$ 172,882 |
| DAYTONA | DSC/FSU School of Medicine/Campus Renewal -Daytona (pce) | New Const/Equip | \$ 250,000 |
| DAYTONA | Hospitality/Tourism Building - Daytona Campus (pce) | New Const/Equip | \$ 2,434,938 |
| EDISON | Allied Health Sciences & Classroom - Collier Campus (pce) | New Const/Equip | \$ 2,000,000 |
| FL ST COLLEGE AT JAX | Institute for Food Safety - Downtown (pce) | New Const/Equip | \$ 1,000,000 |
| FL ST COLLEGE AT JAX | Academic Health Building - North Campus (pce) | New Const/Equip | \$ 1,090,000 |
| FL KEYS | No request | | \$ 0 |
| GULF COAST | Major Ren Health Science - Const Addl Student Stations - Main | New Const/Equip | \$ 91,667 |
| HILLSBOROUGH | No request | | \$ 0 |
| INDIAN RIVER | Voc-Tech/Career Pathways Center - Main Campus (pce) | New Const/Equip | \$ 1,000,000 |
| INDIAN RIVER | Science, Technology, Engineering, Mathematics Bldg - Main (pce) | New Const/Equip | \$ 1,000,000 |
| FL GATEWAY (Lake City) | No request | | \$ 0 |
| LAKE-SUMTER | Joint-use Library - South Lake Center (pce) | New Const/Equip | \$ 1,564,465 |
| SCF, MANATEE SARASOTA | Medical Technology & Simulation Bldg - Lakewood Ranch Ctr (pce) | New Const/Equip | \$ 712,518 |
| MIAMI DADE | Land and Facilities Acquisition/Construction - Collegewide (pce) | Site/New Const/Equip | \$ 22,882,201 |
| MIAMI DADE | Classroom, Student Union, Support Facility - Wolfson (pce) | New Const/Equip | \$ 1,000,000 |
| NORTH FL | No request | | \$ 0 |
| NORTHWEST FLORIDA | Community Services Complex - Niceville Campus (pce) | New Const/Equip | \$ 3,405,636 |
| PALM BEACH | Education Training Ctr - Belle Glade Campus (pce) | New Const/Equip | \$ 484,456 |
| PASCO-HERNANDO | Wesley Chapel Center (pce) - Wesley Chapel | New Const/Equip | \$ 342,578 |
| PENSACOLA | Classroom Building - Pensacola (pce) | New Const/Equip | \$ 1,047,600 |

⁸³ Governor's Recommended General Appropriations (Fiscal Year 2012-13), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled "Fiscal Year" select "2012-13"); Fla. HB 5001 (as Introduced) (2012); Fla. HB 5001 (as Engrossed) (2012); Fla. SB 2000 (as Introduced) (2012); Fla. SB 2000 (as Engrossed) (2012); Conf. Comm. Rep. on Fla. HB 5001 (2012) *available at* <https://www.flsenate.gov/Session/Bill/2012/5001/Amendment/657521/PDF>.

⁸⁴ Fla. HB 5001 (as Enacted) (Apr. 17, 2012).

⁸⁵ Fla. Dep't of Educ., 2013-14 Legislative Budget Request (Oct. 9, 2012) at 228-29, *available at* <http://www.fldoe.org/core/fileparse.php/7601/urlt/0066640-1314olbr.pdf>.

| FLORIDA COLLEGE SYSTEM Facility Enhancement Challenge Grant Program Total Eligible Private Contributions | | | |
|--|---|----------------------|------------------------------|
| <u>COLLEGE</u> | <u>PROJECT</u> | <u>PROJECT TYPE</u> | <u>TOTAL FUNDS REQUESTED</u> |
| PENSACOLA | Conference Center (Building 8) - Pensacola | New Const/Equip | \$ 1,750 |
| POLK | Advanced Global Tech Ctr - Bartow (pce) | New Const/Equip | \$ 14,500,000 |
| ST. JOHNS RIVER | No request | | \$ 0 |
| ST. PETERSBURG | Natural Habitat Park & Site Improvements - Seminole Campus | Const/Equip/Site Imp | \$ 100,000 |
| ST. PETERSBURG | Ren/Rem District Office Building - EpiCenter | Ren/Rem/Equip | \$ 10,000 |
| ST. PETERSBURG | Orthotics & Prosthetics Bldg, Equip & Site Imp. - Health Ed Ctr (pce) | Const/Equip/Site Imp | \$ 8,450 |
| ST. PETERSBURG | Ren/Rem Palladium Bldg - St. Petersburg/Gibbs Campus | Ren/Rem/Equip | \$ 300 |
| ST. PETERSBURG | Rem/Ren/Add Student Services Bldg - St. Petersburg/Gibbs | Rem/Ren/Add/Equip | \$ 26,500 |
| ST. PETERSBURG | Ren/Rem Annex 2 Building - EpiCenter | Ren/Rem/Equip | \$ 2,000,000 |
| SANTA FE | Fine Arts Facility - Main Campus (pce) | New Const/Equip | \$ 1,083,718 |
| SANTA FE | Blount Center Expansion Project (pce) | New Const/Equip | \$ 1,000,000 |
| SEMINOLE | No request | | \$ 0 |
| SOUTH FLORIDA | Rem/Ren/Add Fine Arts Facility - Main Campus | Rem/Ren/Add/Equip | \$ 828,922 |
| TALLAHASSEE | Ghazvini Health Education Center (pce) | New Const/Equip | \$ 446,272 |
| VALENCIA | Library & High Tech Classrooms - Osceola Campus (pce) | New Const/Equip | \$ 5,181,896 |
| Total Eligible Private Contributions | | | \$ 69,208,749 |
| Appropriation Request | | | \$ 25,391,705 |
| (Approximately 37% of Eligible Private Contributions) | | | |

95. For the fiscal year from July 1, 2013 to June 30, 2014, the Governor’s recommended budget, the House’s budget bills, the Senate’s budget bills, and the Conference Committee report each allocated *no funds* to matching under the Facility Enhancement Matching Statute.⁸⁶ The final General Appropriations Act allocated *no funds* to matching under that statute.⁸⁷

96. For the fiscal year from July 1, 2014 to June 30, 2015, the Department of Education, requested *no funds* under the Facility Enhancement Matching Statute.⁸⁸ The Governor’s recommended budget, the House’s budget bills, the Senate’s budget bills, and the

⁸⁶ Governor’s Recommended General Appropriations (Fiscal Year 2013-14), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled “Fiscal Year” select “2013-14”); Fla. HB 5001 (as Introduced) (2013); Fla. HB 5001, (as Engrossed) (2013); Fla. SB 1500 (as Introduced) (2013); Conf. Comm. Rep. on Fla. SB 1500 (2013).

⁸⁷ Fla. SB 1500 (as Enacted) (May 20, 2013).

⁸⁸ Fla. Dep’t of Educ. 2014–15 Legislative Budget Request (Sept. 17, 2013), *available at* <http://www.fldoe.org/core/fileparse.php/76> [REDACTED]br.pdf.

Conference Committee report each allocated *no funds* to matching under that statute.⁸⁹ The final General Appropriations Act allocated *no funds* to matching under that statute.⁹⁰

97. For the fiscal year from July 1, 2015 to June 30, 2016, the Department of Education, requested *no funds* under the Facility Enhancement Matching Statute.⁹¹ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.⁹² The final General Appropriations Act allocated *no funds* to matching under that statute.⁹³

98. For the fiscal year from July 1, 2016 to June 30, 2017, the Department of Education requested *no funds* under the Facility Enhancement Matching Statute.⁹⁴ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.⁹⁵ The final General Appropriations Act allocated *no funds* to matching under that statute.⁹⁶

⁸⁹ Governor's Recommended General Appropriations (Fiscal Year 2014-15), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled "Fiscal Year" select "2014-15"); Fla. HB 5001 (as Introduced) (2014); Fla. HB 5001 (First Engrossed) (2014); Fla. SB 2500, as Introduced (2014); Fla. SB 2500 (First Engrossed) (2014); Conf. Comm. Rep. on Fla. HB 5001 (2014), *available at* <https://www.flsenate.gov/Session/Bill/2014/5001/Amendment/783953/PDF>.

⁹⁰ Fla. HB 5001 (as Enacted) (June 2, 2014).

⁹¹ Fla. Dep't of Educ., 2015–2016 Legislative Budget Request (Sept. 29, 2014), *available at* <http://www.fldoe.org/core/fileparse.php/5444/urlt/0071224-green.pdf>.

⁹² Governor's Recommended General Appropriations (Fiscal Year 2015-16), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled "Fiscal Year" select "2015-16"); Fla. HB 1A (2007); Fla. HB 5001 § 2 (as Introduced) (2016); Fla. SB 2500 (2016); Fla. SB 2500A (2015A); Conf. Comm. Rep. on Fla. SB 2500A (2015A) *available at* <https://www.flsenate.gov/Session/Bill/2015A/2500A/Amendment/234572/PDF>.

⁹³ Fla. SB2500A (as Enacted) (June 23, 2015).

⁹⁴ Fla. Dep't of Educ., Fiscal Year 2016-2017 Budget Request (Oct. 15, 2015), *available at* <http://www.fldoe.org/core/fileparse.php/7601/urlt/FY1617Greenbook.pdf>.

⁹⁵ Governor's Recommended General Appropriations (Fiscal Year 2016-17), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled "Fiscal Year" select "2016-17"); Fla. HB 5001 (as Introduced) (2016); Fla. SB 2500 (as Introduced) (2016); SB 2500 (First Engrossed) (2016); Conf. Comm. Rep. on Fla. HB 5001 (2016) *available at* <https://www.flsenate.gov/Session/Bill/2016/5001/Amendment/212343/PDF>.

⁹⁶ Fla. HB 5001 (as Enacted) (Mar. 17, 2016).

99. For the fiscal year from July 1, 2017 to June 30, 2018, the Department of Education requested *no funds* under the Facility Enhancement Matching Statute.⁹⁷ The Governor’s recommended budget, the House’s budget bills, the Senate’s budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.⁹⁸ The final General Appropriations Act allocated *no funds* to matching under that statute.⁹⁹

100. The following chart summarizes the amounts the Department of Education requested, the Governor included in his recommended budget, the House and Senate included in its budget bills and the Conference Committee reports, and the amounts appropriated in the General Appropriations Act for the foregoing fiscal years under the Facility Enhancement Matching Statute:

| | DOE Request | Governor’s Recommended Budget | House, Senate Bills, Committee Report | General Appropriations Act |
|-------------------------------|--------------------|--------------------------------------|--|-----------------------------------|
| July 1, 2008 to June 30, 2009 | \$53.8 Million | \$26.6 M ¹⁰⁰ | \$0 | \$0 |
| July 1, 2009 to June 30, 2010 | \$0 | \$0 | \$0 | \$0 |
| July 1, 2010 to June 30, 2011 | \$12.6 M | \$0 | \$0 | \$0 |
| July 1, 2011 to June 30, 2012 | \$64.7 M | \$0 | \$0 | \$0 |
| July 1, 2012 to June 30, 2013 | \$69.2 M | \$0 | \$0 | \$0 |
| July 1, 2013 to June 30, 2014 | \$25.4 M | \$0 | \$0 | \$0 |
| July 1, 2014 to June 30, 2015 | \$0 | \$0 | \$0 | \$0 |

⁹⁷ Fla. Dep’t of Educ., Legislative Budget Request (Sept. 30, 2016), *available at* www.fldoe.org/core/fileparse.php/18330/urlt/greenbook.pdf.

⁹⁸ Governor’s Recommended General Appropriations (Fiscal Year 2017-18), <http://www.floridafirstbudget.com/web%20forms/OtherInfo/reports/Governors-Bill.pdf> Fla. HB 5001; Fla. HB 5003; Fla. SB 2500; Fla. SB 2502; Conf. Comm. Rep. on Fla. SB 2500 (2017), *available at* <https://www.flsenate.gov/Session/Bill/2017/2500/Amendment/764844/pdf>; Conf. Comm. Rep. on Fla. SB 2502 (2017), *available at* <https://www.flsenate.gov/Session/Bill/2017/2502/Amendment/740600/pdf>.

⁹⁹ Fla. SB 2500 (as Enacted) (June 5, 2017).

¹⁰⁰ The Governor’s recommended budget allocated this amount for both the Benjamin College Scholarship Matching Statue and the College Facility Enhancement Matching Statute combined.

| | DOE Request | Governor's Recommended Budget | House, Senate Bills, Committee Report | General Appropriations Act |
|-------------------------------|--------------------|--------------------------------------|--|-----------------------------------|
| July 1, 2015 to June 30, 2016 | \$0 | \$0 | \$0 | \$0 |
| July 1, 2016 to June 30, 2017 | \$0 | \$0 | \$0 | \$0 |
| July 1, 2017 to June 30, 2018 | \$0 | \$0 | \$0 | \$0 |

2. Universities

a. University Major Gifts Matching Statute

101. For the fiscal year from July 1, 2008 to June 30, 2009, the Department of Education requested \$77.3 million under the University Major Gifts Matching Statute.¹⁰¹ The Governor's recommended budget allocated \$74.9 million under the Major Gift Matching Statute and the University Facility Enhancement Matching Statute.¹⁰² The House's budget bills, the Senate's budget bills, and the Conference committee report each allocated *no funds* to matching under the University Major Gifts Matching Statute.¹⁰³ The final General Appropriations Act allocated *no funds* to matching under that statute.¹⁰⁴

102. For the fiscal year from July 1, 2009 to June 30, 2010, the Department of Education initially requested \$102 million under the University Major Gifts Matching Statute but in an amended request requested *no funds* under that statute.¹⁰⁵ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report

¹⁰¹ State Univ. Sys. of Fla. 2008–2009 Total Educ. & Gen. Budget (April 29, 2008), http://www.flbog.edu/about/_doc/budget/lbr/2008-09_OperationBudgetSummary.pdf.

¹⁰² Governor's Recommended General Appropriations (Fiscal Year 2008-09) at 30, <http://floridafiscalportal.state.fl.us/Document.aspx?ID=2331&DocType=PDF>.

¹⁰³ *Id.*; Fla. HB 5001 (as Introduced) (2009A); Fla. SB 2A (as Introduced) (2009A); Fla. SB 56A (as Introduced) (2009A); Conf. Comm. Rep. on Fla. SB 2A *available at* <http://public.lobbytools.com/index.cfm?type=bills&id=25317>.

¹⁰⁴ Fla. HB 5001 (as Enacted) (June 11, 2008); Fla. SB2A (as Enacted) (Jan. 27, 2009).

¹⁰⁵ Fla. Dep't of Educ., Expenditures by Issue and Category Amended (Oct. 15, 2008) at 185, *available at* <http://www.dc.state.fl.us/pub/LBR/2009/ExhibitD3a.pdf>.

each allocated *no funds* to matching under that statute.¹⁰⁶ The final General Appropriations Act allocated *no funds* to matching under that statute.¹⁰⁷

103. For the fiscal year from July 1, 2010 to June 30, 2011, the Department of Education requested \$140.8 million under the University Major Gifts Matching Statute.¹⁰⁸ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.¹⁰⁹ The final General Appropriations Act allocated *no funds* to matching under that statute.¹¹⁰

104. For the fiscal year from July 1, 2011 to June 30, 2012, the Department of Education requested \$280.3 million under the University Major Gifts Matching Statute.¹¹¹ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.¹¹² The final

¹⁰⁶ Governor's Recommended General Appropriations (Fiscal Year 2009-10), <http://floridafiscalportal.state.fl.us/Document.aspx?ID=1118&DocType=PDF>; Fla. HB 5001 (as Introduced) (2009); Fla. HB 5001 (Engrossed) (2009); Fla. SB 2600 (First Engrossed) (2009); Fla. SB 2754 (2009); Conf. Comm. Rep. on SB 2600 (2009) *available at* <http://static.lobbytools.com/bills/2009/pdf/AS26001003.pdf>.

¹⁰⁷ Fla. SB 2600 (as Enacted) (May 27, 2009).

¹⁰⁸ Fla. Dep't of Educ., Expenditures by Issue and Appropriation (Oct. 15, 2009) at 248, *available at* http://www.cftnews.com/uploads/4564_Exhibit_D_3A_Expenditures_by_Issue_and_Appropriati_on_Category_1%5B1%5D.pdf.

¹⁰⁹ Governor's Recommended General Appropriations (Fiscal Year 2010-11), <http://floridafiscalportal.state.fl.us/Document.aspx?ID=2825&DocType=PDF>; Fla. HB 5001 (as Introduced) (2010); Fla. HB 5001 (First Engrossed) (2010); Fla. SB 2700 (as Introduced) (2010); Fla. SB 2700 (First Engrossed) (2010); Conf. Comm. Rep. on Fla. HB 5001 (2010), *available at* <http://archive.flsenate.gov/data/session/2010/House/bills/amendments/pdf/hb5001e1561933.pdf>.

¹¹⁰ Fla. HB 5001 (as Enacted) (May 28, 2010).

¹¹¹ Florida Department of Education Exhibits to Legislative Budget Request (Oct. 15, 2010) at 194, *available at* <http://floridafiscalportal.state.fl.us/Document.aspx?ID=3541&DocType=PDF>; Fla. Dep't of Educ., Expenditures by Issue and Appropriation (Oct. 15, 2010) at 277, *available at* <http://floridafiscalportal.state.fl.us/Document.aspx?ID=3537&DocType=PDF>.

¹¹² Governor's Recommended General Appropriations (Fiscal Year 2011-2012) <http://floridafiscalportal.state.fl.us/Document.aspx?ID=4483&DocType=PDF>; Fla. HB 5001 (as Introduced) (2011); Fla. HB 5001 (Engrossed) (2011); Fla. SB 2000 (2011) (as Introduced); Fla. SB 2000 (2011) (First Engrossed); Fla. SB 2000 (2011) (Second Engrossed); Fla. SB 2000 (2011) (Third Engrossed); Conf. Comm. Rep. on SB 2000 (2011) *available at* <https://www.flsenate.gov/Session/Bill/2011/2000/Amendment/500186/PDF>.

General Appropriations Act allocated *no funds* to matching under that statute.¹¹³

105. For the fiscal year from July 1, 2012 to June 30, 2013, the Department of Education requested \$282.6 million under the University Major Gifts Matching Statute.¹¹⁴ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.¹¹⁵ The final General Appropriations Act allocated *no funds* to matching under that statute.¹¹⁶

106. For the fiscal year from July 1, 2013 to June 30, 2014, the Department of Education requested \$286.2 million under the University Major Gifts Matching Statute and the University Facility Enhancement Matching Statute.¹¹⁷ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under the University Major Gifts Matching Statute.¹¹⁸ The final General Appropriations Act allocated *no funds* to matching under that statute.¹¹⁹

¹¹³ Fla. SB 2000 (as Enacted) (May 26, 2011).

¹¹⁴ Fla. Dep't of Educ., Expenditures by Issue and Appropriation (Sept. 15, 2011) at 184, *available at* <http://floridafiscalportal.state.fl.us/Document.aspx?ID=5971&DocType=PDF>; Fla. Dep't of Educ., Expenditures by Issue and Appropriation (Nov. 4, 2011), *available at* <http://floridafiscalportal.state.fl.us/Document.aspx?ID=6175&DocType=PDF>; Fla. Dep't of Educ., Expenditures by Issue and Appropriation (Jan. 31, 2012) at 3, *available at* <http://floridafiscalportal.state.fl.us/Document.aspx?ID=6372&DocType=PDF>.

¹¹⁵ Governor's Recommended General Appropriations (Fiscal Year 2012-13), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled "Fiscal Year" select "2012-13"); Fla. HB 5001 (as Introduced) (2012); Fla. HB 5001 (as Engrossed) (2012); Fla. SB 2000 (as Introduced) (2012); Fla. SB 2000 (as Engrossed) (2012); Conf. Comm. Rep. on Fla. HB 5001 (2012) *available at* <https://www.flsenate.gov/Session/Bill/2012/5001/Amendment/657521/PDF>.

¹¹⁶ Fla. HB 5001 (as Enacted) (Apr. 17, 2012).

¹¹⁷ Fla. Dep't of Educ., Expenditures by Issue and Appropriation (Oct. 15, 2012) at 176, <http://floridafiscalportal.state.fl.us/Document.aspx?ID=7921&DocType=PDF>.

¹¹⁸ Governor's Recommended General Appropriations (Fiscal Year 2013-14), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled "Fiscal Year" select "2013-14"); Fla. HB 5001 (as Introduced) (2013); Fla. HB 5001, (as Engrossed) (2013); Fla. SB 1500 (as Introduced) (2013); Conf. Comm. Rep. on Fla. SB 1500 (2013), <https://www.flsenate.gov/Session/Bill/2013/1500/Amendment/590582/PDF>.

¹¹⁹ SB 1500 (as Enacted) (May 20, 2013).

107. For the fiscal year from July 1, 2014 to June 30, 2015, the Department of Education requested *no funds* under the University Major Gifts Matching Statute.¹²⁰ The Governor’s recommended budget, the House’s budget bills, the Senate’s budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.¹²¹ The final General Appropriations Act allocated *no funds* to matching under that statute.¹²²

108. For the fiscal year from July 1, 2015 to June 30, 2016, the Department of Education requested *no funds* under the Major Gifts Matching Statute.¹²³ The Governor’s recommended budget, the House’s budget bills, the Senate’s budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.¹²⁴ The final General Appropriations Act allocated *no funds* to matching under that statute.¹²⁵

109. For the fiscal year from July 1, 2016 to June 30, 2017, the Department of Education requested *no funds* under the University Major Gifts Matching Statute.¹²⁶ The Governor’s recommended budget, the House’s budget bills, the Senate’s budget bills, and the

¹²⁰ Fla. Dep’t of Educ., Expenditures by Issue and Appropriation (Oct. 15, 2013), *available at* http://static-lobbytools.s3.amazonaws.com/press/61877_dep1415lbr_ed3a.pdf.

¹²¹ Governor’s Recommended General Appropriations (Fiscal Year 2014-15), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled “Fiscal Year” select “2014-15”); Fla. HB 5001 (as Introduced) (2014); Fla. HB 5001 (First Engrossed) (2014); Fla. SB 2500, as Introduced (2014); Fla. SB 2500 (First Engrossed) (2014); Conf. Comm. Rep. on Fla. HB 5001 (2014), *available at* <https://www.flsenate.gov/Session/Bill/2014/5001/Amendment/783953/PDF>.

¹²² Fla. HB 5001 (as Enacted) (June 2, 2014).

¹²³ Dep’t of Educ., Expenditures by Issue and Appropriation (Oct. 15, 2014), *available at* <http://floridafiscalportal.state.fl.us/Document.aspx?ID=11372&DocType=PDF>.

¹²⁴ Governor’s Recommended General Appropriations (Fiscal Year 2015-16), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled “Fiscal Year” select “2015-16”); Fla. HB 1A (2007); Fla. HB 5001 § 2 (as Introduced) (2016); Fla. SB 2500 (2016); Fla. SB 2500A (2015A); Conf. Comm. Rep. on Fla. SB 2500A (2015A) *available at* <https://www.flsenate.gov/Session/Bill/2015A/2500A/Amendment/234572/PDF>.

¹²⁵ SB2500A (as Enacted) (June 23, 2015).

¹²⁶ Fla. Dep’t of Educ., Expenditures by Issue and Appropriation (Sept. 15, 2015), *available at* <http://floridafiscalportal.state.fl.us/Document.aspx?ID=13833&DocType=PDF>.

Conference Committee report each allocated *no funds* to matching under that statute.¹²⁷ The final General Appropriations Act allocated *no funds* to matching under that statute.¹²⁸

110. For the fiscal year from July 1, 2017 to June 30, 2018, the Department of Education requested *no funds* under the University Major Gifts Statute.¹²⁹ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.¹³⁰ The final General Appropriations Act allocated *no funds* to matching under that statute.¹³¹

111. The following chart summarizes the amounts the Department of Education requested, the Governor included in his recommended budget, the House and Senate included in its budget bills and the Conference Committee reports, and the amounts appropriated in the General Appropriations Act for the foregoing fiscal years under the University Major Gifts Matching Statute:

¹²⁷ Governor's Recommended General Appropriations (Fiscal Year 2016-17), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled "Fiscal Year" select "2016-17"); Fla. HB 5001 (as Introduced) (2014); Fla. HB 5001 (First Engrossed) (2014); Fla. SB 2500, as Introduced (2014); Fla. SB 2500 (First Engrossed) (2014); Conf. Comm. Rep. on Fla. HB 5001 (2014), <https://www.flsenate.gov/Session/Bill/2014/5001/Amendment/783953/PDF>.

¹²⁸ Fla. HB 5001 (as Enacted) (March 17, 2016).

¹²⁹ Fla. Dep't of Educ., Legislative Budget Request (Sept. 30, 2016), *available at* www.fldoe.org/core/fileparse.php/18330/urlt/greenbook.pdf.

¹³⁰ Governor's Recommended General Appropriations (Fiscal Year 2017-18), <http://www.floridafirstbudget.com/web%20forms/OtherInfo/reports/Governors-Bill.pdf>; Fla. HB 5001; Fla. HB 5003; Fla. SB 2500; Fla. SB 2502; Conf. Comm. Rep. on Fla. SB 2500 (2017), *available at* <https://www.flsenate.gov/Session/Bill/2017/2500/Amendment/764844/pdf>; Conf. Comm. Rep. on Fla. SB 2502 (2017), *available at* <https://www.flsenate.gov/Session/Bill/2017/2502/Amendment/740600/pdf>.

¹³¹ Fla. SB 2500 (as Enacted) (June 5, 2017).

| | DOE Request | Governor's Recommended Budget | House, Senate Bills, Committee Report | General Appropriations Act |
|-------------------------------|--------------------|--------------------------------------|--|-----------------------------------|
| July 1, 2008 to June 30, 2009 | \$77.3 M | \$74.9 M ¹³² | \$0 | \$0 |
| July 1, 2009 to June 30, 2010 | \$0 | \$0 | \$0 | \$0 |
| July 1, 2010 to June 30, 2011 | \$140.8 M | \$0 | \$0 | \$0 |
| July 1, 2011 to June 30, 2012 | \$280.3 M | \$0 | \$0 | \$0 |
| July 1, 2012 to June 30, 2013 | \$282.6 M | \$0 | \$0 | \$0 |
| July 1, 2013 to June 30, 2014 | \$286.2 M | \$0 | \$0 | \$0 |
| July 1, 2014 to June 30, 2015 | \$0 | \$0 | \$0 | \$0 |
| July 1, 2015 to June 30, 2016 | \$0 | \$0 | \$0 | \$0 |
| July 1, 2016 to June 30, 2017 | \$0 | \$0 | \$0 | \$0 |
| July 1, 2017 to June 30, 2018 | \$0 | \$0 | \$0 | \$0 |

b. University Facility Enhancement Matching Statute

112. Plaintiffs Ryan and Alexis Geffin used and would have benefitted from improvements to facilities throughout the University of Florida campus, including the Computer Sciences Engineering building and the Harn Museum, facilities for which the Board of Governors requested a match while Plaintiffs Ryan and Alexis Geffin were students at the University of Florida.

113. For the fiscal year from July 1, 2008 to June 30, 2009, the Department of Education requested \$68.3 million under the University Facility Enhancement Matching Statute.¹³³ The Governor's recommended budget allocated \$74.9 million under the Major Gift

¹³² The Governor's recommended budget allocated this amount under the Major Gift Matching Statute and the University Facility Enhancement Matching Statute combined.

¹³³ Fla. Board of Educ., Education Budget Line Item Detail (October 16, 2007) at 7, <http://www.fldoe.org/core/fileparse.php/7601/urlt/0066650-0809obr.pdf>.

Matching Statute and the University Facility Enhancement Matching Statute.¹³⁴ The House’s budget bills, the Senate’s budget bills, and the Conference Committee report each allocated *no funds* to matching under the University Facility Enhancement Matching Statute.¹³⁵ The final General Appropriations Act allocated *no funds* to matching under that statute.¹³⁶

114. For the fiscal year from July 1, 2009 to June 30, 2010, the Department of Education requested \$73.5 million under the University Facility Enhancement Matching Statute allocated as follows:¹³⁷

| University | Project | Requested State Match |
|------------|---|-----------------------|
| UF | Graduate Studies Building (P,C,E) | \$ 9,824,124 |
| UCF | Laboratory Instruction Building Phase I (P,C,E) | \$ 7,168,510 |
| USF | Lakeland New Campus Phase I-B (P,C,E) | \$ 9,241,975 |
| FSU | College of Music Teaching Improvements (E) | \$ 1,769,423 |
| UWF | Maritime Museum & Educational Center Ph I (P,C,E) | \$ 4,329,900 |
| FGCU | Environmental Demonstration Lab (P,C,E) | \$ 1,000,000 |
| FIU | College of Law (E) | \$ 188,303 |
| UNF | Carpenter Library (E) | \$ 5,000 |
| UNF | Science and Engineering Building #50 (E) | \$ 328,204 |
| UF | Harn Museum (P,C,E) | \$ 10,043,260 |
| UCF | Burnett Bio-Medical Science (P,C,E) | \$ 2,528,515 |
| USF | Health Renovation(E) | \$ 54,663 |
| USF | Medical Office Building North Clinic (C,E) | \$ 3,180,424 |
| FSU | College of Medicine Clinic Improvements (P,C,E) | \$ 2,000,000 |
| UWF | Amphitheater Pavillion (P,C,E) | \$ 600,000 |
| FGCU | Engineering (E) | \$ 235,000 |
| FIU | Hospitality Management (P,C,E) | \$ 500,000 |
| UNF | Brooks College (E) | \$ 38,485 |
| UF | Chemical Engineering Building Phase I (P,C,E) | \$ 2,904,391 |
| UCF | Morgridge National Reading Center (P,C) | \$ 2,064,127 |
| USF | Nursing Expansion (E) | \$ 113,499 |

¹³⁴ Governor’s Recommended General Appropriations (Fiscal Year 2008-09) at 30, <http://floridafiscalportal.state.fl.us/Document.aspx?ID=2331&DocType=PDF>.

¹³⁵ State Univ. Sys. of Fla. Bd. of Governors, Fixed Capital Outlay Budget Comparison (2008–2009).

¹³⁶ Fla. SB 5001 (as Enacted) (June 11, 2008); Fla. SB 2A (as Enacted) (Jan. 27, 2009).

¹³⁷ State Univ. Sys. of Fla. Bd. of Governors, Fixed Capital Outlay Budget Comparison (2009–2010), *available at* http://www.flbog.edu/about/_doc/budget/budgetrequest/20092010/200910_Fixed_Capital_Outlay_Bud_Compare.xls.

| University | Project | Requested State Match |
|-------------------|--|------------------------------|
| FSU | Ringling Circus Museum (P,C,E) | \$ 593,763 |
| FIU | Graduate School of Business Phase II (P,C,E) | \$ 151,928 |
| UNF | Student Union (E) | \$ 25,000 |
| UF | Pharmacy Building Apopka/Orlando (P,C,E) | \$ 1,232,574 |
| UCF | Engineering III Enhancement (E) | \$ 1,283,030 |
| USF | Joint Military Leadership Center (E) | \$ 66,924 |
| FSU | College of Educ.Multipurpose Teaching (P,C,E) | \$ 1,000,000 |
| FIU | Intl. Hur. Ctr. Wall of Wind Test Fac, Ph II (P,C,E) | \$ 50,000 |
| UNF | Coggin Coll. Of Buiness #42 (E) | \$ 10,000 |
| UF | Graduate Studies Building (P,C,E) | \$ 868,693 |
| UCF | Arts Complex II Enhancement (P,C) | \$ 500,000 |
| FSU | Center for Asian Art (P,C,E) | \$ 4,100,000 |
| FIU | College of Nursing & Health Sciences Laboratory (E) | \$ 31,471 |
| UF | Small Animal Hospital (P,C,E) | \$ 852,906 |
| UCF | Career Services(E) | \$ 196,610 |
| USF | Public Broadcasting - Studio Renovation (P,C,E) | \$ 50,136 |
| FSU | Student Success Center(P,C,E) | \$ 497,224 |
| FIU | Patricia and Phillip Frost Art Museum (C,E) | \$ 30,000 |
| UF | Pediatric Dentistry (P,C,E) | \$ 650,556 |
| UCF | Performing Arts Center(E) | \$ 114,930 |
| USF | Anatomy Labs (P,C,E) | \$ 50,000 |
| FSU | Panama City Academic Center (E) | \$ 446,066 |
| FIU | Engineering Center Lab (P,C,E) | \$ 25,000 |
| UF | Extension Professional Development Center (P,C,E) | \$ 600,000 |
| UCF | Psychology (E) | \$ 73,663 |
| FSU | School of Hospitality Teaching Improvements (P,C,E) | \$ 328,813 |
| UF | Periodontology (P,C,E) | \$ 483,115 |
| UCF | Optics and Photonics Enhancement (E) | \$ 68,065 |
| FSU | Ringling Museum (E) | \$ 7,120 |
| UF | Trial Advocacy Center Phase III (P,C,E) | \$ 450,050 |
| UCF | Alumni Center/John & Martha Hitt Library (P,C,E) | \$ 7,749 |
| UF | Mid-Florida REC Multi-purpose (P,C,E) | \$ 203,500 |
| UCF | Physical Sciences(E) | \$ 1,150 |
| UF | Weil Hall (Renov.) (P,C,E) | \$ 200,000 |
| UF | Health Science Center Archive Room (P,C,E) | \$ 100,100 |
| UF | Conference Room/ REC, Ona (P,C,E) | \$ 40,000 |
| | Lump Sum | |
| | TOTAL | \$ 73,507,939 |

115. For the fiscal year from July 1, 2009 to June 30, 2010, the Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference

Committee report each allocated *no funds* to matching under the University Facility Enhancement Matching Statute.¹³⁸ The final General Appropriations Act allocated *no funds* to matching under that statute.¹³⁹

116. For the fiscal year from July 1, 2010 to June 30, 2011, the Department of Education requested \$84.1 million under the University Facility Enhancement Matching Statute allocated as follows:¹⁴⁰

| University | Project | Requested State Match |
|------------|--|-----------------------|
| USF | USF Polytechnic I-4 Campus Phase I-B (P,C,E) | \$ 10,417,179 |
| UCF | Laboratory Instruction Building Phase I (P,C,E) | \$ 10,120,787 |
| UF | Harn Museum (P,C,E) | \$ 10,043,260 |
| FSU | College of Music Teaching Improvements (P,C,E) | \$ 1,793,597 |
| UWF | Maritime Museum & Educational Center Ph I (P,C,E) | \$ 4,559,000 |
| FIU | Stadium/ Student Academic meeting rooms (C,E) | \$ 10,508 |
| FIU | College of Law (E) | \$ 293,982 |
| UNF | Science and Engineering Building #50 (E) | \$ 337,624 |
| UNF | Social Sciences Building | \$ 2,842 |
| USF | Health Renovation(E) | \$ 2,173,413 |
| FGCU | Engineering (E) | \$ 53,000 |
| FSU | Ringling Circus Museum (P,C,E) | \$ 694,263 |
| FSU | Center for Asian Art (P,C,E) | \$ 4,100,000 |
| FSU | Student Success Center (P,C,E) | \$ 497,521 |
| FSU | School of Hospitality Teaching Improvements (P,C,E) | \$ 328,813 |
| FSU | College of Medicine Clinic Improvements (P,C,E) | \$ 2,000,000 |
| FSU | College of Educ.Multipurpose Teaching (P,C,E) | \$ 1,000,000 |
| UWF | Amphitheater Pavillion (P,C,E) | \$ 600,000 |
| FIU | Intl. Hur. Ctr. Wall of Wind Test Fac, Ph II (E) | \$ 100,000 |
| FIU | College of Nursing & Health Sciences Laboratory (E) | \$ 123,496 |
| FIU | Hospitality Mgmt. Carnival Student Center (P,C,E) | \$ 500,000 |
| FIU | Engineering Center Lab (E) | \$ 25,000 |
| FIU | Hospitality Mgmt. Beverage Management Center (P,C,E) | \$ 949,425 |
| FIU | Graduate School of Business Phase II (E) | \$ 368,019 |
| FIU | Patricia and Phillip Frost Art Museum (C,E) | \$ 97,000 |
| FIU | Broad Auditorium, Social Sciences Phase I (P,C,E) | \$ 250,000 |
| UF | Graduate Studies Building (P,C,E) | \$ 9,824,124 |
| USF | Medical Office Building North Clinic (C,E) | \$ 2,271,960 |

¹³⁸ State Univ. Sys. of Fla. Bd. of Governors, Fixed Capital Outlay Budget Comparison (2009–2010), *available* at http://www.flbog.edu/about/_doc/budget/budgetrequest/20092010/200910_Fixed_Capital_Outlay_Bud_Compare.xls.

¹³⁹ *Id.*

¹⁴⁰ State Univ. Sys. of Fla. Bd. of Governors, Legislative Summary Attach. D (2010-2011) at 31–32, http://www.flbog.edu/about/_doc/budget/budgetrequest/20102011/SUS-Legislative-Summary-Manual-Web-Version.pdf.

| University | Project | Requested State Match |
|------------|--|-----------------------|
| USF | Nursing Expansion (E) | \$ 113,739 |
| USF | Joint Military Leadership Center (E) | \$ 67,084 |
| USF | USF Polytechnic Intedisc. Center for Wellness Res.(P,C) | \$ 100,000 |
| USF | USF Polytechnic PH II-A High Tech Bus.Incubator (P,C) | \$ 700,000 |
| USF | Johnny B. Byrd Sr. Alzheimer's Center and Research Inst. | \$ 1,440,075 |
| UCF | Burnett Bio-Medical Science (P,C,E) | \$ 2,068,685 |
| UCF | Arts Complex II Enhancement (P,C) | \$ 500,000 |
| UCF | Morgridge National Reading Center (P,C,) | \$ 2,068,685 |
| UCF | Psychology (E) | \$ 88,540 |
| UCF | Engineering III Enhancement (E) | \$ 1,895,070 |
| UCF | Alumni Center/John & Martha Hitt Library (E) | \$ 7,749 |
| UCF | Optics and Photonics Enhancement (E) | \$ 69,085 |
| UCF | Career Services 7 Experiential Learning (E) | \$ 196,660 |
| UCF | Physical Science Building (E) | \$ 1,150 |
| FSU | Panama City Academic Center (E) | \$ 454,575 |
| FSU | Ringling Circus Museum Library Improv. (P,C,E) | \$ 7,645 |
| UF | Health Science Center Archive Room (P,C,E) | \$ 100,100 |
| UF | Pediatric Dentistry (P,C,E) | \$ 707,056 |
| UF | Chemical Engineering Building Phase I (P,C,E) | \$ 3,073,541 |
| UF | Proton Beam VI (P,C,E) | \$ 475,000 |
| UF | Periodontology (P,C,E) | \$ 483,115 |
| UF | Extension Professional Development Center (P,C,E) | \$ 600,000 |
| UF | Trial Advocacy Center Phase III (P,C,E) | \$ 1,470,550 |
| UF | Pharmacy Building Apopka/Orlando (P,C,E) | \$ 1,232,574 |
| UF | Conference Room/ REC, Ona (P,C,E) | \$ 40,000 |
| UF | Mid-Florida REC Multi-purpose (P,C,E) | \$ 203,500 |
| UF | Weil Hall (Renov.) (P,C,E) | \$ 500,000 |
| UF | Graduate Studies Building Phase II (P,C,E) | \$ 868,693 |
| UF | Computer Science Engineering (P,C,E) | \$ 75,000 |
| FGCU | Environmental Demonstration Lab (P,C,E) | \$ 1,000,000 |
| | | \$ |
| | | \$ 84,142,684 |

117. For the fiscal year from July 1, 2010 to June 30, 2011, the Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under the University Facility Enhancement Matching Statute.¹⁴¹ The final General Appropriations Act allocated *no funds* to matching under that statute.¹⁴²

¹⁴¹ State Univ. Sys. of Fla. Bd. of Governors, Legislative Summary Attach. D (2010-2011) at 31–32, http://www.flbog.edu/about/_doc/budget/budgetrequest/20102011/SUS-Legislative-Summary-Manual-Web-Version.pdf.

¹⁴² *Id.*

118. For the fiscal year from July 1, 2011 to June 30, 2012, the Department of Education requested \$89.2 million under the University Facility Enhancement Matching Statute allocated as follows:¹⁴³

| University | Project | Requested State Match |
|-------------------|--|------------------------------|
| FGCU | Environmental Demonstration Lab (P,C,E) | \$ 1,000,000 |
| FGCU | Engineering (E) | \$ 596,000 |
| FIU | Stadium/ Student Academic meeting rooms (C,E) | \$ 1,026,240 |
| FIU | College of Law (E) | \$ 304,444 |
| FIU | Intl. Hur. Ctr. Wall of Wind Test Fac, Ph II (E) | \$ 100,000 |
| FIU | College of Nursing & Health Sciences Laboratory (E) | \$ 163,618 |
| FIU | Hospitality Mgmt. Carnival Student Center (P,C,E) | \$ 500,000 |
| FIU | Engineering Center Lab (E) | \$ 25,000 |
| FIU | Hospitality Mgmt. Beverage Management Center (P,C,E) | \$ 1,782,318 |
| FIU | Graduate School of Business Phase I (E) | \$ 411,406 |
| FIU | Patricia and Phillip Frost Art Museum (C,E) | \$ 97,000 |
| FIU | Broad Auditorium, Social Sciences Phase I (P,C,E) | \$ 258,601 |
| FIU | Stocker Astrophysics Center (P,C,E) | \$ 637,320 |
| FSU | College of Music Teaching Improvements (P,C,E) | \$ 1,793,597 |
| FSU | Ringling Circus Museum (P,C,E) | \$ 694,763 |
| FSU | Center for Asian Art (P,C,E) | \$ 4,100,000 |
| FSU | Student Success Center(P,C,E) | \$ 494,349 |
| FSU | College of Medicine Clinic Improvements (P,C,E) | \$ 2,000,000 |
| FSU | College of Educ.Multipurpose Teaching (P,C,E) | \$ 1,000,000 |
| FSU | Panama City Academic Center (E) | \$ 453,150 |
| FSU | Ringling Circus Museum Library Improv. (P,C,E) | \$ 7,645 |
| UCF | Burnett Bio-Medical Science Center (C,E) | \$ 2,528,605 |
| UCF | Arts Complex II Enhancement (P,C) | \$ 500,000 |
| UCF | Medical School Library (P,C,E) | \$ 4,000,000 |
| UCF | Morgridge National Reading Center (P,C,) | \$ 2,068,685 |
| UCF | Psychology (E) | \$ 86,540 |
| UCF | Engineering III Enhancement (E) | \$ 2,384,463 |
| UCF | Alumni Center/John & Martha Hitt Library (E) | \$ 8,249 |
| UCF | Optics and Photonics Enhancement (E) | \$ 69,735 |
| UCF | Career Services & Experiential Learning (E) | \$ 196,950 |
| UCF | Physical Science Building (E) | \$ 1,150 |
| UF | Graduate Studies Building (P,C,E) | \$ 9,824,124 |
| UF | Harn Museum (P,C,E) | \$ 10,043,260 |
| UF | Health Science Center Archive Room (P,C,E) | \$ 100,100 |

¹⁴³ State Univ. Sys. of Fla. Bd. of Governors, Legislative Summary for 2011 Regular Session Attach. D 26-28, *available at* http://www.flbog.edu/about/_doc/budget/lbr/2011-12_LegislativeSummary.pdf.

| University | Project | Requested State Match |
|-------------------|---|------------------------------|
| UF | Pediatric Dentistry (P,C,E) | \$ 707,056 |
| UF | Chemical Engineering Building Phase I (P,C,E) | \$ 3,073,541 |
| UF | Proton Beam VI (P,C,E) | \$ 475,000 |
| UF | Periodontology (P,C,E) | \$ 483,115 |
| UF | Extension Professional Development Center (P,C,E) | \$ 600,000 |
| UF | Trial Advocacy Center Phase III (P,C,E) | \$ 1,470,550 |
| UF | Pharmacy Building Apopka/Orlando (P,C,E) | \$ 1,232,574 |
| UF | Conference Room/ REC, Ona (P,C,E) | \$ 40,000 |
| UF | Mid-Florida REC Multi-purpose (P,C,E) | \$ 203,500 |
| UF | Weil Hall (Renov.) (P,C,E) | \$ 200,000 |
| UF | Graduate Studies Building Phase II (P,C,E) | \$ 868,693 |
| UF | Computer Science Engineering (P,C,E) | \$ 75,000 |
| UNF | Science and Engineering Building #50 (E) | \$ 344,416 |
| UNF | Diability Resources Center (E) | \$ 100,000 |
| UNF | Hidden Lake Project (E) | \$ 50,000 |
| USF | USF Health Major renovation/Remodeling/Addition | \$ 2,192,163 |
| USF | Health - ByrdSuncoast 5th Floor Build-Out (P,C,E) | \$ 1,447,873 |
| USF | Medical Office Building North Clinic (C,E) | \$ 3,180,424 |
| USF | Nursing Expansion (E) | \$ 63,000 |
| USF | Joint Military Leadership Center (E) | \$ 67,084 |
| USF | USF Polytechnic I-4 Campus Phase I-B (P,C,E) | \$ 10,634,108 |
| USF | USF Polytec Intedisc. Center for Wellness Res.(P,C) | \$ 3,500,000 |
| USF | USF Polytec PH II-A High Tech Bus.Incubator (P,C) | \$ 700,000 |
| USF | School of Music at the College of Arts(E) | \$ 833,772 |
| UWF | Maritime Museum & Educational Center Ph I (P,C,E) | \$ 3,441,000 |
| UWF | Maritime Museum & Educational Center Ph II (P,C,E) | \$ 4,000,000 |
| | | \$ 89,240,181 |

119. For the fiscal year from July 1, 2011 to June 30, 2012, the Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under the University Facility Enhancement Matching Statute.¹⁴⁴ The final General Appropriations Act allocated *no funds* to matching under that statute.¹⁴⁵

¹⁴⁴ State Univ. Sys. of Fla. Bd. of Governors, Legislative Summary for 2011 Regular Session Attach. D 26–28, available at http://www.flbog.edu/about/_doc/budget/lbr/2011-12_LegislativeSummary.pdf.

¹⁴⁵ *Id.*

120. For the fiscal year from July 1, 2012 to June 30, 2013, the Department of Education requested \$99.3 million under the University Facility Enhancement Matching Statute allocated as follows:¹⁴⁶

| University | Project | Board Request State Matching |
|------------|--|------------------------------|
| FGCU | Environmental Demonstration Lab (P,C,E) | \$ 1,000,000 |
| FGCU | Engineering (E) | \$ 596,000 |
| FIU | Stadium/ Student Academic meeting rooms (C,E) | \$ 1,035,258 |
| FIU | College of Law (E) | \$ 304,444 |
| FIU | Intl. Hur. Ctr. Wall of Wind Test Fac, Ph II (E) | \$ 100,005 |
| FIU | College of Nursing & Health Sciences Laboratory (E) | \$ 205,999 |
| FIU | Hospitality Mgmt. Carnival Student Center (P,C,E) | \$ 500,000 |
| FIU | Engineering Center Lab (E) | \$ 25,000 |
| FIU | Hospitality Mgmt. Beverage Management Center (P,C,E) | \$ 2,648,955 |
| FIU | Graduate School of Business Phase I (E) | \$ 1,924,244 |
| FIU | Patricia and Phillip Frost Art Museum (C,E) | \$ 97,000 |
| FIU | Broad Auditorium, Social Sciences Phase I (P,C,E) | \$ 258,433 |
| FIU | Stocker Astrophysics Center (P,C,E) | \$ 798,946 |
| FSU | College of Music Teaching Improvements (P,C,E) | \$ 1,793,597 |
| FSU | Ringling Circus Museum (P,C,E) | \$ 694,763 |
| FSU | Center for Asian Art (P,C,E) | \$ 4,100,000 |
| FSU | Student Success Center(P,C,E) | \$ 494,449 |
| FSU | College of Medicine Clinic Improvements (P,C,E) | \$ 2,000,000 |
| FSU | College of Educ.Multipurpose Teaching (P,C,E) | \$ 1,000,000 |
| FSU | Panama City Academic Center (E) | \$ 453,250 |
| FSU | Ringling Circus Museum Library Improv. (P,C,E) | \$ 7,645 |
| UCF | Laboratory Instruction Building (P,C,E) | \$ 15,372,777 |
| UCF | Performing Arts Fund (E) | \$ 144,652 |
| UCF | Career Services & Experiential Center (E) | \$ 196,728 |
| UCF | Caracol in Belize (P,C,E) | \$ 350,000 |
| UCF | Burnett Bio-Medical Science Center (C,E) | \$ 2,528,605 |
| UCF | Arts Complex II Enhancement (P,C) | \$ 500,000 |
| UCF | Medical School Library (P,C,E) | \$ 4,000,000 |

¹⁴⁶ State Univ. Sys. of Fla., 2012-2013 Alec P. Courtelis Facility Enhancement Challenge Grant Program List (Sept. 14, 2011),

http://www.flbog.edu/documents_meetings/0150_0539_4317_110%20FAC%20Attach%20IVb.Facility%20Enhancement%20Challenge%20Grant%20Detail.pdf; *see* State Univ. Sys. of Fla., minutes of meeting (Sept. 14, 2011)

http://www.flbog.edu/documents_meetings/0128_0551_4438_403%20FAC%2002a%20Facilitie s%20minutes%20091511%20DRAFT.pdf (approval of 2012-13 Fixed Capital Outlay Legislative Budget Request, including the requests under the University Facility Enhancement Matching Statute).

| University | Project | Board Request | State Matching |
|------------|---|---------------|-------------------|
| UCF | Morgridge National Reading Center (P,C,) | \$ | 2,297,170 |
| UCF | Psychology (E) | \$ | 86,540 |
| UCF | Engineering III Enhancement (E) | \$ | 2,394,463 |
| UCF | Alumni Center/John & Martha Hitt Library (E) | \$ | 7,349 |
| UCF | Optics and Photonics Enhancement (E) | \$ | 69,085 |
| UCF | Career Services & Experiential Learning (E) | \$ | 196,950 |
| UCF | Physical Science Building (E) | \$ | 1,162 |
| UF | Graduate Studies Building (P,C,E) | \$ | 9,824,124 |
| UF | Harn Museum (P,C,E) | \$ | 8,793,260 |
| UF | Health Science Center Archive Room (P,C,E) | \$ | 100,100 |
| UF | Pediatric Dentistry (P,C,E) | \$ | 707,056 |
| UF | Chemical Engineering Building Phase I (P,C,E) | \$ | 3,073,541 |
| UF | Proton Beam VI (P,C,E) | \$ | 475,000 |
| UF | Periodontology (P,C,E) | \$ | 483,115 |
| UF | Extension Professional Development Center (P,C,E) | \$ | 600,000 |
| UF | Trial Advocacy Center Phase III (P,C,E) | \$ | 1,470,550 |
| UF | Pharmacy Building Apopka/Orlando (P,C,E) | \$ | 1,232,574 |
| UF | Conference Room/ REC, Ona (P,C,E) | \$ | 40,000 |
| UF | Mid-Florida REC Multi-purpose (P,C,E) | \$ | 203,500 |
| UF | Weil Hall (Renov.) (P,C,E) | \$ | 200,000 |
| UF | Graduate Studies Building Phase II (P,C,E) | \$ | 868,693 |
| UF | Computer Science Engineering (P,C,E) | \$ | 75,000 |
| UNF | Science and Engineering Building #50 (E) | \$ | 337,624 |
| UNF | Social Science Building (E) | \$ | 2,841 |
| USF | USF Health Major renovation/Remodeling/Addition | \$ | 2,342,163 |
| USF | Health - ByrdSuncoast 5th Floor Build-Out (P,C,E) | \$ | 1,447,873 |
| USF | Medical Office Building North Clinic (C,E) | \$ | 2,972,060 |
| USF | Nursing Expansion (E) | \$ | 63,000 |
| USF | Joint Military Leadership Center (E) | \$ | 67,084 |
| USF | USF Polytechnic I-4 Campus Phase I-B (P,C,E) | \$ | 10,634,192 |
| USF | USF Polytec Intedisc. Center for Wellness Res.(P,C) | \$ | 3,500,000 |
| USF | USF Polytec PH II-A High Tech Bus.Incubator (P,C) | \$ | 700,000 |
| USF | School of Music at the College of Arts(E) | \$ | 892,549 |
| | | \$ | 99,289,368 |

121. For the fiscal year from July 1, 2012 to June 30, 2013, the Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under the University Facility

Enhancement Matching Statute.¹⁴⁷ The final General Appropriations Act allocated *no funds* to matching under that statute.¹⁴⁸

122. For the fiscal year from July 1, 2013 to June 30, 2014, the Department of Education requested \$99.3 million under the University Facility Enhancement Matching Statute allocated as follows:¹⁴⁹

| University | Project | Board Request State Matching |
|------------|--|------------------------------------|
| FGCU | Environmental Demonstration Lab (P,C,E) | \$ 1,000,000 |
| FGCU | Engineering (E) | \$ 596,000 |
| FIU | Stadium/ Student Academic meeting rooms (C,E) | \$ 1,035,258 |
| FIU | College of Law (E) | \$ 304,444 |
| FIU | Intl. Hur. Ctr. Wall of Wind Test Fac, Ph II (E) | \$ 100,005 |
| FIU | College of Nursing & Health Sciences Laboratory (E) | \$ 205,999 |
| FIU | Hospitality Mgmt. Carnival Student Center (P,C,E) | \$ 500,000 |
| FIU | Engineering Center Lab (E) | \$ 25,000 |
| FIU | Hospitality Mgmt. Beverage Management Center (P,C,E) | \$ 2,648,955 |
| FIU | Graduate School of Business Phase I (E) | \$ 1,924,244 |
| FIU | Patricia and Phillip Frost Art Museum (C,E) | \$ 97,000 |
| FIU | Broad Auditorium, Social Sciences Phase I (P,C,E) | \$ 258,433 |
| FIU | Stocker Astrophysics Center (P,C,E) | \$ 798,946 |
| FSU | College of Music Teaching Improvements (P,C,E) | \$ 1,793,597 |
| FSU | Ringling Circus Museum (P,C,E) | \$ 694,763 |
| FSU | Center for Asian Art (P,C,E) | \$ 4,100,000 |
| FSU | Student Success Center(P,C,E) | \$ 494,449 |
| FSU | College of Medicine Clinic Improvements (P,C,E) | \$ 2,000,000 |
| FSU | College of Educ.Multipurpose Teaching (P,C,E) | \$ 1,000,000 |
| FSU | Panama City Academic Center (E) | \$ 453,250 |
| FSU | Ringling Circus Museum Library Improv. (P,C,E) | \$ 7,645 |
| UCF | Laboratory Instruction Building (P,C,E) | \$ 15,372,777 |
| UCF | Performing Arts Fund (E) | \$ 144,652 |
| UCF | Career Services & Experiential Center (E) | \$ 196,728 |

¹⁴⁷ Governor’s Recommended General Appropriations (Fiscal Year 2012-13), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled “Fiscal Year” select “2012-13”); Fla. HB 5001 (as Introduced) (2012); Fla. HB 5001 (as Engrossed) (2012); Fla. SB 2000 (as Introduced) (2012); Fla. SB 2000 (as Engrossed) (2012); Conf. Comm. Rep. on Fla. HB 5001 (2012) *available at* <https://www.flsenate.gov/Session/Bill/2012/5001/Amendment/657521/PDF>.

¹⁴⁸ Fla. HB 5001 (as Enacted) (Apr. 17, 2012).

¹⁴⁹ State Univ. Sys. of Fla. Bd. of Governors, Legislative Summary (2013-2014) at 32–34, http://www.flbog.edu/about/_doc/budget/lbr/2013-14_LegislativeSummary.pdf.

| University | Project | Board Request State Matching |
|-------------------|---|---|
| UCF | Caracol in Belize (P,C,E) | \$ 350,000 |
| UCF | Burnett Bio-Medical Science Center (C,E) | \$ 2,528,605 |
| UCF | Arts Complex II Enhancement (P,C) | \$ 500,000 |
| UCF | Medical School Library (P,C,E) | \$ 4,000,000 |
| UCF | Morgridge National Reading Center (P,C,) | \$ 2,297,170 |
| UCF | Psychology (E) | \$ 86,540 |
| UCF | Engineering III Enhancement (E) | \$ 2,394,463 |
| UCF | Alumni Center/John & Martha Hitt Library (E) | \$ 7,349 |
| UCF | Optics and Photonics Enhancement (E) | \$ 69,085 |
| UCF | Careeer Services & Experiential Learning (E) | \$ 196,950 |
| UCF | Physical Science Building (E) | \$ 1,162 |
| UF | Graduate Studies Building (P,C,E) | \$ 9,824,124 |
| UF | Harn Museum (P,C,E) | \$ 8,793,260 |
| UF | Health Science Center Archive Room (P,C,E) | \$ 100,100 |
| UF | Pediatric Dentistry (P,C,E) | \$ 707,056 |
| UF | Chemical Engineering Building Phase I (P,C,E) | \$ 3,073,541 |
| UF | Proton Beam VI (P,C,E) | \$ 475,000 |
| UF | Periodontology (P,C,E) | \$ 483,115 |
| UF | Extension Professional Development Center (P,C,E) | \$ 600,000 |
| UF | Trial Advocacy Center Phase III (P,C,E) | \$ 1,470,550 |
| UF | Pharmacy Building Apopka/Orlando (P,C,E) | \$ 1,232,574 |
| UF | Conference Room/ REC, Ona (P,C,E) | \$ 40,000 |
| UF | Mid-Florida REC Multi-purpose (P,C,E) | \$ 203,500 |
| UF | Weil Hall (Renov.) (P,C,E) | \$ 200,000 |
| UF | Graduate Studies Building Phase II (P,C,E) | \$ 868,693 |
| UF | Computer Science Engineering (P,C,E) | \$ 75,000 |
| UNF | Science and Engineering Building #50 (E) | \$ 337,624 |
| UNF | Social Science Building (E) | \$ 2,841 |
| USF | USF Health Major renovation/Remodeling/ Addition | \$ 2,342,163 |
| USF | Health - ByrdSuncoast 5th Floor Build-Out (P,C,E) | \$ 1,447,873 |
| USF | Medical Office Building North Clinic (C,E) | \$ 2,972,060 |
| USF | Nursing Expansion (E) | \$ 63,000 |
| USF | Joint Military Leadership Center (E) | \$ 67,084 |
| USF | USF Polytechnic I-4 Campus Phase I-B (P,C,E) | \$ 10,634,192 |
| USF | USF Polytec Intedisc. Center for Wellness Res.(P,C) | \$ 3,500,000 |
| USF | USF Polytec PH II-A High Tech Bus.Incubator (P,C) | \$ 700,000 |
| USF | School of Music at the College of Arts(E) | \$ 892,549 |
| | | \$ 99,289,368 |

123. The Governor’s recommended budget, the House’s budget bills, the Senate’s budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.¹⁵⁰ The final General Appropriations Act allocated *no funds* to matching under that statute.¹⁵¹

124. For the fiscal year from July 1, 2014 to June 30, 2015, the Department of Education requested *no funds* under the University Facility Enhancement Matching Statute.¹⁵² The Governor’s recommended budget, the House’s budget bills, the Senate’s budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.¹⁵³ The final General Appropriations Act allocated *no funds* to matching under that statute.¹⁵⁴

125. For the fiscal year from July 1, 2015 to June 30, 2016, the Department of Education requested *no funds* under the University Facility Enhancement Matching Statute.¹⁵⁵ The Governor’s recommended budget, the House’s budget bills, the Senate’s budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.¹⁵⁶ The final General Appropriations Act allocated *no funds* to matching under that statute.¹⁵⁷

¹⁵⁰*Id.* Attach. D at 32–34.

¹⁵¹ SB 1500 (as Enacted) (May 20, 2013).

¹⁵² Fla. Dep’t of Educ., 2014-2015 Legislative Budget Request (Sept. 17, 2013), *available at* <http://www.fldoe.org/core/fileparse.php/7601/urlt/0066639-1415lbr.pdf>.

¹⁵³ Governor’s Recommended General Appropriations (Fiscal Year 2014-15), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled “Fiscal Year” select “2014-15”); Fla. HB 5001 (as Introduced) (2014); Fla. HB 5001 (First Engrossed) (2014); Fla. SB 2500, as Introduced (2014); Fla. SB 2500 (First Engrossed) (2014); Conf. Comm. Rep. on Fla. HB 5001 (2014) <https://www.flsenate.gov/Session/Bill/2014/5001/Amendment/783953/PDF>.

¹⁵⁴ Fla. HB 5001 (as Enacted) (July 2, 2014).

¹⁵⁵ Fla. Dep’t of Educ., Expenditures by Issue and Appropriation (Oct. 15, 2014), *available at* <http://floridafiscalportal.state.fl.us/Document.aspx?ID=11372&DocType=PDF>.

¹⁵⁶ Governor’s Recommended General Appropriations (Fiscal Year 2015-16), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled “Fiscal Year” select “2015-16”); Fla. HB 1A (2007); Fla. HB 5001 § 2 (as Introduced) (2016); Fla. SB 2500 (2016); Fla. SB 2500A (2015A); Conf. Comm. Rep. on Fla. SB 2500A (2015A), <https://www.flsenate.gov/Session/Bill/2015A/2500A/Amendment/234572/PDF>.

¹⁵⁷ SB2500A (as Enacted) (June 23, 2015).

126. For the fiscal year from July 1, 2016 to June 30, 2017, the Department of Education, requested *no funds* under the University Facility Enhancement Matching Statute.¹⁵⁸ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.¹⁵⁹ The final General Appropriations Act allocated *no funds* to matching under that statute.¹⁶⁰

127. For the fiscal year from July 1, 2017 to June 30, 2018, the Department of Education requested *no funds* under the University Facility Enhancement Matching Statute.¹⁶¹ The Governor's recommended budget, the House's budget bills, the Senate's budget bills, and the Conference Committee report each allocated *no funds* to matching under that statute.¹⁶² The final General Appropriations Act allocated *no funds* to matching under that statute.¹⁶³

128. The following chart summarizes the amounts the Department of Education requested, the Governor included in his recommended budget, the House and Senate included in its budget bills and the Conference Committee reports, and the amounts appropriated in the General Appropriations Act for the foregoing fiscal years under the University Facility Enhancement Matching Statute:

¹⁵⁸ Fla Dep't of Educ., Expenditures by Issue and Appropriation (Sept. 15, 2015), *available at* <http://floridafiscalportal.state.fl.us/Document.aspx?ID=13833&DocType=PDF>.

¹⁵⁹ Governor's Recommended General Appropriations (Fiscal Year 2016-17), <http://www.floridafirstbudget.com/web%20forms/Bill/BillText.aspx> (in the drop-down menu titled "Fiscal Year" select "2016-17"); Fla. HB 5001 (as Introduced) (2016); Fla. SB 2500 (as Introduced) (2016); SB 2500 (First Engrossed) (2016); Conf. Comm. Rep. on Fla. HB 5001 (2016) *available at* <https://www.flsenate.gov/Session/Bill/2016/5001/Amendment/212343/PDF>.

¹⁶⁰ Fla. HB 5001 (as Enacted) (March 17, 2016).

¹⁶¹ Fla. Dep't of Educ., Legislative Budget Request (Sept. 30, 2016), *available at* www.fldoe.org/core/fileparse.php/18330/urlt/greenbook.pdf.

¹⁶² Governor's Recommended General Appropriations (Fiscal Year 2017-18), <http://www.floridafirstbudget.com/web%20forms/OtherInfo/reports/Governors-Bill.pdf> Fla. HB 5001; Fla. HB 5003; Fla. SB 2500; Fla. SB 2502; Conf. Comm. Rep. on Fla. SB 2500 (2017), *available at* <https://www.flsenate.gov/Session/Bill/2017/2500/Amendment/764844/pdf>; Conf. Comm. Rep. on Fla. SB 2502 (2017), *available at* <https://www.flsenate.gov/Session/Bill/2017/2502/Amendment/740600/pdf>.

¹⁶³ Fla. SB 2500 (as Enacted) (June 5, 2017).

| | DOE Request | Governor's Recommended Budget | House, Senate Bills, Committee Report | General Appropriations Act |
|-------------------------------|-------------|-------------------------------|---------------------------------------|----------------------------|
| July 1, 2008 to June 30, 2009 | \$68.3 M | \$74.9 M ¹⁶⁴ | \$0 | \$0 |
| July 1, 2009 to June 30, 2010 | \$73.5 M | \$0 | \$0 | \$0 |
| July 1, 2010 to June 30, 2011 | \$84.1 M | \$0 | \$0 | \$0 |
| July 1, 2011 to June 30, 2012 | \$89.2 M | \$0 | \$0 | \$0 |
| July 1, 2012 to June 30, 2013 | \$99.3 M | \$0 | \$0 | \$0 |
| July 1, 2013 to June 30, 2014 | \$99.3 M | \$0 | \$0 | \$0 |
| July 1, 2014 to June 30, 2015 | \$0 | \$0 | \$0 | \$0 |
| July 1, 2015 to June 30, 2016 | \$0 | \$0 | \$0 | \$0 |
| July 1, 2016 to June 30, 2017 | \$0 | \$0 | \$0 | \$0 |
| July 1, 2017 to June 30, 2018 | \$0 | \$0 | \$0 | \$0 |

3. Florida's Financial Obligations

129. Although Defendants had the constitutional and statutory right not to appropriate money to match private donations because of general revenue shortfalls during the Great Recession, once the economy rebounded and increased general revenue above expenses the Florida Constitution and Florida Statutes required the State to fund matching gifts.

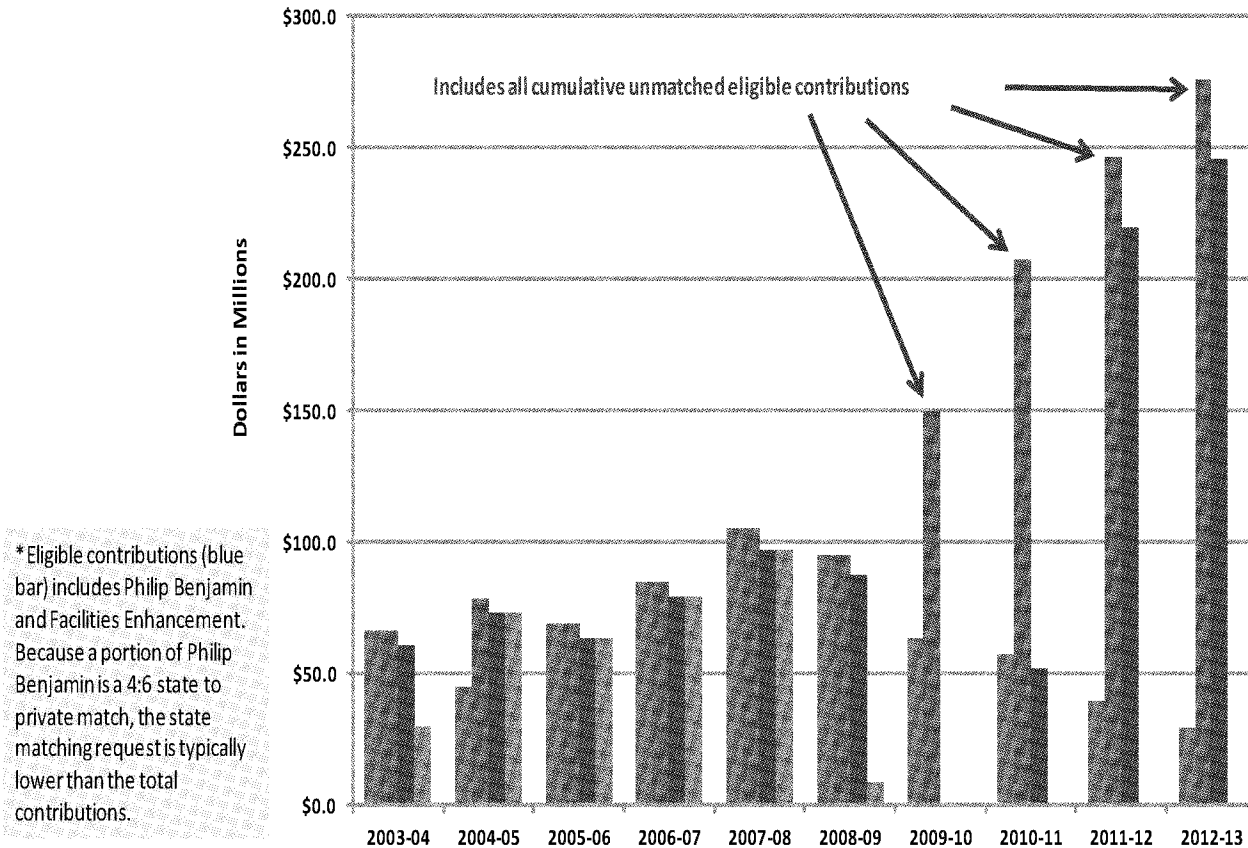
130. Defendants had no obligation to fund until the first year with a projected and an actual general revenue surplus or the fiscal year from July 1, 2012 to June 30, 2013.

131. Currently, in excess of \$600 million in State matching funds is owed.

132. In 2012, the State Department of Education published the following chart and table, showing that under the two college matching statutes alone, Defendants have failed to appropriate over \$250 million:

¹⁶⁴ The Governor's recommended budget allocated this amount under the Major Gift Matching Statute and the University Facility Enhancement Matching Statute combined.

Philip Benjamin and Facilities Enhancement Matching Grant Programs



| | | | | | | | | | | |
|---|--------|--------|--------|--------|---------|--------|---------|---------|---------|---------|
| Eligible Private Contributions Per Year | \$66.0 | \$45.2 | \$69.0 | \$84.8 | \$105.4 | \$95.2 | \$63.7 | \$57.1 | \$39.5 | \$29.1 |
| Eligible Private Contributions Total | \$66.0 | \$78.4 | \$69.0 | \$84.8 | \$105.4 | \$95.2 | \$150.1 | \$207.2 | \$246.7 | \$275.8 |
| State Matching Request | \$60.6 | \$73.2 | \$63.3 | \$79.1 | \$97.2 | \$87.4 | \$0.0 | \$51.7 | \$220.0 | \$245.7 |
| Appropriated Matching Funds | \$30.2 | \$73.2 | \$63.3 | \$79.1 | \$97.2 | \$8.8 | \$0.0 | \$0.0 | \$0.0 | \$0.0 |

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133. In 2011, the Legislature amended the four matching statutes and recognized in the text of the amendment that the State's portion of the backlog exceeded \$200 million. While acknowledging the debt, this substantially understated what was due. Over time, ever-increasing amounts were disclosed as due.

134. A June 21, 2011, Board of Education report and a Senate Bill Analysis stated that the State's portion of the matching backlog under the four matching statutes was about \$517

¹⁶⁵ Fla. State Bd. of Educ., Summer Budget Workshop (2012) at B-54.

million.¹⁶⁶

135. The Higher Education Coordinating Council, created by Florida statute to identify unmet needs in higher education and which includes the Chancellors of the State University Florida College Systems, estimated that Florida's portion of the match through February 1, 2014 is over \$628 million.¹⁶⁷

G. Trumpeting Education Funding While Ignoring Broken Promises

136. That State, controlled by Defendants has—to this day—not funded its obligations under the matching statutes, which is a continuing constitutional violation. Defendants' actions in unconstitutionally hiding the defunding in appropriations bills and acts have also, for any class members unaware of the causes of action for failing to fund, fraudulently concealed the causes of action, thus preventing the statute of limitations from beginning to accrue. Defendants have also promised to pay the outstanding monies and touted their funding of education, which, for any class members aware of a potential cause of action, equitably estops the Defendants from asserting any statute of limitations defense.

137. Indeed, by hiding the defunding of the match in appropriations bills and acts, Defendants have concealed the State's failure to fund the match. Westlaw and Google searches

¹⁶⁶ Fla. Dep't of Educ., Legislative Summary (2011–2012) at 124, <http://www.fldoe.org/core/fileparse.php/7513/urlt/legislativereview2011.pdf>; Fla. S. Comm. on Budget, SB 2150 (Reg. Session 2011) Staff Analysis and Economic Impact Statement 12 (Apr. 1, 2011), *available at* <https://www.flsenate.gov/Session/Bill/2011/2150/Analyses/2011s2150.bc.PDF>.

¹⁶⁷ Higher Educ. Coordinating Council of Fla., draft minutes of meeting (May 29, 2015), http://www.floridahighereducation.org/_doc_meetings/20150626/HECC-meeting-minutes-May-29-2015.pdf; Higher Educ. Coordinating Council of Fla., Recommendations on Florida College System and State University System Matching Grant Programs at 1 (May 29, 2015), *available at* http://www.floridahighereducation.org/_doc_meetings/20150529/FCS-SUS-Matching-Grants-Programs.pdf; Higher Educ. Coordinating Council of Fla., Recommendations on Florida College System and State University System Matching Grant Programs at 1 (June 26, 2016), http://www.floridahighereducation.org/_doc_meetings/20150626/FCS-SUS-Matching-Grant-Programs.pdf.

for news articles since 2011 shows that no articles have been published about the State's failure to match since the year of the passage of the temporary suspension amendment.

138. The past and present Speakers of the House and current Florida Senate President have also touted the importance of higher education:

- Former House Speaker Steve Crisafulli was reported as describing the budget for 2015-2016 as meeting “top priorities” “including . . . higher education funding.”¹⁶⁸
- Former House Speaker Steve Crisafulli has been reported as saying “The Florida House is committed to making Florida’s education system the best in the nation.”¹⁶⁹
- Current Speaker of the House Richard Corcoran has been quoted as saying: “We know that the most important factor on whether a young person succeeds or fails in life, after the involvement of parents is whether he or she is afforded a world-class education.”¹⁷⁰
- Current Florida Senate President Joe Negron has been reported, without addressing the over \$1 billion funding shortfall caused by the failure to match, as “propos[ing] investing an additional \$1 billion into higher education during his term.”¹⁷¹
- The Treasure Coast Newspapers have reported “[i]f Joe Negron gets his way . . . Floridians could get a higher education, regardless of their income.”¹⁷²
- The Gainesville Sun has editorialized that “Florida’s public colleges and universities have a friend in a high place” because “Joe Negron, the state Senate president-designate, has made increased spending for higher education a priority for his two-year term as president.”¹⁷³
- Senate President Negron has been quoted as saying: “My guiding principle is that students in Florida, regardless of their financial situation, or what family they came from, will have the opportunity to attend the university to which they are accepted.”¹⁷⁴

¹⁶⁸ Lloyd Dunkelberger, *Budget Down to Final Votes*, Sarasota Herald-Trib. A1 (June 19, 2015).

¹⁶⁹ *Florida House Passes Legislation to Increase Access, Choice, Affordability for Florida Students*, Targeted News Service (Feb. 18, 2016).

¹⁷⁰ Press Release from United Negro College Fund, *State News Service* (Nov. 29, 2016).

¹⁷¹ *Widen Path to Degree for Students*, Orlando Sentinel 12 (Oct. 25, 2016).

¹⁷² Isabel Rangel, *Joe Negron’s Plans for Lake Okeechobee, Universities Face Budget Woes*, Treasure Coast Newspapers (Nov. 18, 2016).

¹⁷³ Phil Ammann, *A Roundup of Sunday Editorials from Florida’s Leading Newspapers*, SaintPetersBlog (Apr. 18, 2016).

¹⁷⁴ *Senate Passes Balanced Budget with Unprecedented Education Funding*, US State News

139. The Governor, the Senate President, and the Speakers of the House have made such statements and taken credit for promoting affordable education while evading accountability for failing to meet matching obligations of hundreds of millions of dollars.

H. Defendants’ Breaches Have Prevented over \$460 Million in Private Donations from Reaching Colleges and Universities

140. From 2008 to 2017, most, if not all, of private donations were made pursuant to written agreements.

141. The Internal Revenue Service requires donors claiming a federal tax deduction to receive and keep a record of the donation, in the form of a bank record or a written communication from the non-profit organization, showing the name of the organization, the date of the donation, and the amount of the donation.¹⁷⁵

142. The Internal Revenue Service requires non-profit organizations, such as those that receive donations for Florida’s public colleges and universities, to make and keep certain records. It recognizes that contributions will generate supporting documents, including “receipts, deposit slips, and canceled checks” that “contain information to be recorded in accounting records.” And such organizations must keep records showing amounts and sources of gross receipts, which could include donor correspondence, pledge documents, deposit slips, invoices, credit charge slips, and forms that reflect miscellaneous income.¹⁷⁶

143. Florida State University, for example, has a Gift Acceptance Policy requiring gifts of over \$25,000 be memorialized in writing.¹⁷⁷ Many other colleges, college foundations, universities, and university foundations have a range of writings from online donation forms, to pledge forms, to gift agreements on their websites. The University of Florida’s Pledge form, for

(May 8, 2017).

¹⁷⁵ 26 U.S.C. § 170(e)(17); 26 C.F.R. § 1.170A-13.

¹⁷⁶ Internal Revenue Service, *Compliance Guide for 501(c)(3) Public Charities* 19–20.

¹⁷⁷ Florida State University, *Gift Acceptance and Counting Policies*, Florida State University Policy 8-1 (Effective Oct. 1, 2013), <http://policies.fsu.edu/content/download/122668/1103957/file/Gift%20Acceptance%20and%20Counting%20Policies.pdf>.

example, states: “It is my/our intention that the University of Florida apply for any matching grants that may be available as a result of this gift.”¹⁷⁸

144. From 2008 to 2017, donors wrote checks to public colleges and their foundations as either the payee or co-payee for aid, scholarships, or some combination.

145. Regardless of what, if anything, donors’ writings say about state matching, the four matching statutes were incorporated into those writings as a matter of law and override any inconsistent terms.

146. The four matching statutes match for purposes including scholarships, financial aid, and buildings and improvements at colleges and universities, all of which have the obvious and express purpose of benefiting students. The statutes and the terms of the donations themselves confer a right on students to be paid money or receive a benefit.

147. Under each of the four matching statutes, the State matches private donations on a dollar-for-dollar or fractional basis, so the total amount of private donations eligible for matching is larger than the total amount the State has admitted it owes under the matching statutes.

148. In June 2011, faced with the backlog of unmatched donations owed to Florida’s colleges, a State Board of Education memorandum highlighted that amending the statutes could have severe potential consequences and that secreting an intention to not match gifts could cause donors to cease supporting higher education:¹⁷⁹

Policy Alternatives

1. The State Board of Education could recommend to the Legislature the termination of the Phillip Benjamin Matching Grant and Facility Enhancement Challenge Grant Programs by repealing sections 1011.32 and 1011.85, Florida Statutes.

¹⁷⁸ University of Florida, Pledge Form (Rev. Oct. 2012), <https://www.uff.ufl.edu/Documents/Document.asp?DocID=698>.

¹⁷⁹ Memorandum from Linda Champion, Deputy Comm’r for Finance and Operations and John Newman, Senior Advisor on Legislative Policy and Budget, State Board of Education Action Item regarding Approval of Budget Guidelines for Development of 2012-2013 Legislative Budget (June 21, 2011).

2. The State Board of Education could propose changes to current statutory language which would direct colleges/DSOs to renegotiate the terms of unmatched contributions with donors and to return donations for unmatched contributions for which the terms cannot be renegotiated. Proposed changes should include provisions for what to do if the donation has already been expended on scholarships or the facility already constructed, as well as the applicability of having to add interest payments to the returned donation and what interest rate would be utilized.
3. The State Board of Education could propose statutory language authorizing colleges/DSOs to match donor funds with revenues generated by a special purpose local ad valorem tax authorized for this specific purpose.

Potential Impacts

1. Implementation of these policy alternatives may result in the loss of advocacy and financial support from potential donors.
2. Implementation of these policy alternatives may result in the creation of a mismatch for State University System and Florida College System donors which favors university gifts, unless the same actions are implemented by the Board of Governors.
3. Implementation of policy alternatives 2 or 3 may result in legal challenges due to retroactive rule changes.
4. Implementation of policy alternative 2 may result in significant tax liabilities if donated funds are returned.
5. Implementation of policy alternative 2 may result in financial hardship for colleges if donated but unmatched funds were already expended for lawful purposes but must now be returned to the donor.

149. Enormous sums are sitting in private accounts held by individual colleges and universities or their foundations awaiting disbursement until the state match has been funded. The Florida Atlantic University Foundation's Annual Report for the fiscal year from July 1, 2010 to June 30, 2011, for example, stated that it "had pledges conditional upon legislative appropriation from the Florida Department of Education's Major Gifts Program of approximately \$8,507,000."¹⁸⁰ And the *St. Petersburg Times* reported in 2011 that if the state

¹⁸⁰ Florida Atlantic University Foundation, 2010-2011 Annual Report 48, <https://fauf.fau.edu/cgi-bin/publications/annualreport11/html/>.

satisfied its matching obligations “[i]t could free millions in private gifts to universities waiting for public matching dollars.”¹⁸¹

150. This year, Florida’s Government Efficiency Task Force, created by an amendment to the Florida Constitution to improve the Government’s efficiency and reduce its costs, explaining that matching the sums owed under the university statutes alone would release private donations awaiting a match totaling \$463.4 million.¹⁸²

I. The Failure to Match has Harmed Florida’s Colleges and Universities and Made them more Expensive for Florida Citizens

151. The first two sentences of the College Facility Enhancement Matching Statute state: “The Legislature recognizes that *the Florida College System institutions do not have sufficient physical facilities to meet the current demands of their instructional and community programs*. It further recognizes that, to strengthen and enhance the Florida College system institutions, it is *necessary* to provide facilities in addition to those currently available from existing revenue sources.” Fla. Stat. § 1011.32(1).

152. The first two sentences of the University Facility Enhancement Matching Statute state: “The Legislature recognizes that *the universities do not have sufficient physical facilities to meet the current demands of their instructional and research programs*. It further recognizes that, to strengthen and enhance universities, it is *necessary* to provide facilities in addition to those currently available from existing revenue sources.” Fla. Stat. § 1013.79(1).

153. In its Fixed Capital Outlay Budget Request for the fiscal year from July 1, 2012 to June 30, 2013, the Department of Education explained that “*Florida’s colleges do not have sufficient educational facilities to meet the current demands of their instructional and community*

¹⁸¹ Editorial, *Florida Budget Plans Shortsighted, Irresponsible*, St. Petersburg Times (Apr. 6, 2011).

¹⁸² Final Report, Government Efficiency Task Force (June 30, 2016), <https://www.splcenter.org/sites/default/files/2016-getf-final-report.pdf>.

colleges. To strengthen and enhance the colleges, it is necessary to provide additional facilities.”¹⁸³

154. The Benjamin College Scholarship Matching Statute and the University Major Gifts Matching Statute fund financial aid and scholarships for students that directly benefit students and colleges and universities, which can use them to improve the quality of education and facilities.

155. As the Legislature and the Governor continue to fail to allocate funds mandated under these four statutes, the number of Florida students has increased and strained the college and university system.¹⁸⁴ At the same time, double digit tuition increases became the norm.¹⁸⁵

156. Specifically, in each fiscal year from July 1, 2008 to June 30, 2012, the State authorized a fifteen percent hike per year in tuition for Florida colleges and universities, the maximum allowed under Florida law. Tuition and fees for both the college and university systems increased nearly fifty percent during the Great Recession.¹⁸⁶

157. Increased scholarships and financial aid funding by the State’s compliance with its statutory obligations would have narrowed the gap between increased tuition and decreased funding for student education.

¹⁸³ Fla. Dep’t of Educ., 2012-13 Fixed Capital Outlay Legislative Budget Request: Florida K-20 Education System (Aug. 23, 2011) at 24, *available at* <http://www.fldoe.org/core/fileparse.php/7601/urlt/0066642-greenbook.pdf>.

¹⁸⁴ Fla. S. Comm. on Appropriations, Fla. H.R. Comm. on Appropriations, & Fla. Office Econ. & Demog. Res., Long-Range Financial Outlook Fiscal Years 2014-15 through 2016-17 at 92 (Fall 2013) *available at* http://www.edr.state.fl.us/Content/long-range-financial-outlook/3-Year-Plan_Fall-2013_1415-1617.pdf.

¹⁸⁵ Michael Vasquez, *Tuition Will Jump Next Semester*, Miami Herald, June 21, 2012.

¹⁸⁶ Fla. Stat. §§ 1009.23(4), 1009.24(16)(b); Fla. Bd. of Educ., Summer Budget Workshop (2012) at B-39–B-40, *available at* <http://www.fldoe.org/core/fileparse.php/7568/urlt/0073703-workshop.pdf>; Troy Miller, *At Florida’s State Universities, Tuition Increases at Slowest Pace in Nearly 20 Years*, Florida College Access Network (Aug. 8, 2013), <http://www.floridacollegeaccess.org/2013/08/08/at-floridas-state-universities-tuition-increases-at-slowest-pace-in-nearly-20-years/>.

158. Instead, student debt has soared. As reported by the Project on Student Debt, by 2014, fifty-three percent of Florida students had student loan debt and the average debt had risen to \$23,379.00.¹⁸⁷

159. This borrowing is not sustainable. Nationally, over thirty-eight million student loan borrowers have over \$1.1 trillion in outstanding debt.¹⁸⁸ Over seven million borrowers have defaulted, and a third of Federal Direct Loan Program borrowers have chosen alternative repayment plans to lower their payments.¹⁸⁹ High levels of student loan debt limit household formation, discourage home ownership, constrain entrepreneurship, and pose a risk to retirement security. They also discourage individuals from becoming primary care providers, teachers, or moving to rural communities.¹⁹⁰

160. But “economists . . . say that the only thing worse than graduating with lots of debt is not going to college at all, since study after study has shown that graduates earn more over a lifetime.”¹⁹¹

161. Thus, while the Legislature recognizes that Florida’s colleges and universities do not have adequate facilities to meet their student’s needs, Florida substantially decreased state

¹⁸⁷ Inst. for College Access & Success, *State by State Data*, Project on Student Debt, <http://ticas.org/posd/map-state-data> (last visited November 9, 2016).

¹⁸⁸ Consumer Fin. Prot. Bureau, *Student Loan Affordability: Analysis of Public Input on Impact and Solutions* 5 (May 8, 2013), http://files.consumerfinance.gov/f/201305_cfpb_rfi-report_student-loans.pdf.

¹⁸⁹ Rohit Copra, *A Closer Look at The Trillion*, Consumer Financial Protection Bureau Blog (Aug. 5, 2013), <http://www.consumerfinance.gov/about-us/blog/a-closer-look-at-the-trillion/>.

¹⁹⁰ Consumer Fin. Prot. Bureau, *Student Loan Affordability: Analysis of Public Input on Impact and Solutions* 7–11 (May 8, 2013), http://files.consumerfinance.gov/f/201305_cfpb_rfi-report_student-loans.pdf.

¹⁹¹ Andrew Martin and Andrew W. Lehren, *A Generation Hobbled by the Soaring Cost of College*, New York Times (May 12, 2012), http://www.nytimes.com/2012/05/13/business/student-loans-weighing-down-a-generation-with-heavy-debt.html?pagewanted=all&_r=0; see also Donghoon Lee, *Household Debt and Credit: Student Debt*, Federal Reserve Bank of New York (Feb. 28, 2013), <https://www.newyorkfed.org/medialibrary/media/newsevents/mediaadvisory/2013/Lee022813.pdf>; Alan W. Hodges, et al., *Economic Contributions of the State University System of Florida in Fiscal Year 2009-10* 11-15 (Mar. 8, 2012), <http://www.fred.ifas.ufl.edu/pdf/economic-impact-analysis/SUS-of-Florida-FY-2009-10.pdf>.

funding for these same facilities and for financial aid and scholarships, increased tuition, and forced its students into massive debt.¹⁹²

162. Defendants have deprived Florida's public colleges and universities of public and private funds totaling over \$1 billion.

CLASS ALLEGATIONS

163. Plaintiffs incorporate by reference the allegations contained in Paragraphs 1 through 162.

164. Plaintiffs bring this action on behalf of themselves and as a proposed class action under Florida Rule of Civil Procedure, Rule 1.220, on behalf of a "Student Class."

165. The proposed "Student Class" is:

All former, current, and future students who matriculated or will matriculate at any of Florida's public colleges, community colleges, and universities while either the students or their colleges, community colleges, or universities were eligible for any funds under Fla. Stat. §§ 1011.32, 1011.85, 1011.94, or 1013.79 from July 1, 2012 to present.

166. Plaintiffs and the Student Class can maintain this suit under Rules 1.220(b)(1), 1.220(b)(2), and 1.220(b)(3).

167. The Student Class is so numerous that joinder of all members is impracticable. The Florida College System Annual Report for 2014 reported a headcount of 813,509 students.

¹⁹³ Florida universities in 2007 had an enrollment of 301,135 students; in 2008, had an enrollment of 302,513 students; in 2009, had an enrollment of 312,259 students; in 2010, had an enrollment of 321,503 students; in 2011, had an enrollment of 329,737 students; in 2012, had an enrollment of 334,989 students; in 2013, had an enrollment of 337,750 students; and in 2014 had

¹⁹² Michael Vasquez, *Tuition Will Jump Next Semester*, Miami Herald, June 21, 2012; Inst. for College Access & Success, *State by State Data*, Project on Student Debt, <http://ticas.org/posd/map-state-data> (last visited November 9, 2016).

¹⁹³ Randy Hanna, *2014 Annual Report*, The Florida College System (2014) at 5, https://www.floridacollegesystem.com/sites/www/Uploads/Publications/2014_FCS_Annual_Report.pdf.

an enrollment of 341,044 students.¹⁹⁴ While discovery is necessary to ascertain the exact number of Student Class members, Plaintiffs believe there are over a million Student Class members.

168. Common questions of law and fact predominate over any questions affecting individual members. Those common questions of law and fact include:

- (A) Since July 1, 2008, have Defendants requested and appropriated the sums required under the four matching statutes?
- (B) What general revenue shortfalls or surpluses did Defendants face when creating the budgets for the fiscal years from July 1, 2008 to present?
- (C) Have Defendants made an adequate provision for the higher education of Florida's college and university students in light of funding levels since July 1, 2008?
- (D) Have Defendants made an adequate provision for the higher education of Florida's college and university students in light of the impact of the Great Recession?
- (E) Have Defendants met the needs of Florida's public college and university students while ratcheting up the financial burden on those students enormously since July 1, 2008?
- (F) How much has the financial burden on Florida's public college and university students increased each year since July 1, 2008?
- (G) How has the enrollment in Florida's public colleges and universities changed each year since July 1, 2008?
- (H) How have graduation rates from Florida's public colleges and universities

¹⁹⁴ Board of Governors, State University System of Florida, Interactive University Data http://www.flbog.edu/resources/iud/enrollment_search.php (select "2014" in the drop-down menu; then click continue; then select "ALL" and click continue; on the next screen, make sure that in each of the seven drop-down menus "ALL" is selected and click "continue")

changed each year since July 1, 2008?

- (I) How much has student spending on tuition for Florida's public colleges and universities increased each year since July 1, 2008?
- (J) How much has student debt caused by increased spending on tuition for Florida's public colleges and universities increased each year since July 1, 2008?
- (K) How much in private donations were eligible for matching under the Benjamin College Scholarship Matching Statute each year from July 1, 2008 to present?
- (L) How much did the Department of Education request under the Benjamin College Scholarship Matching Statute each year from July 1, 2008 to present?
- (M) How much money did Florida appropriate to match under the Benjamin College Scholarship Matching Statute each year from July 1, 2008 to present?
- (N) How much in private donations were eligible for matching under the College Facility Enhancement Matching Statute each year from July 1, 2008 to present?
- (O) How much did the Department of Education request under the College Facility Enhancement Matching Statute each year from July 1, 2008 to present?
- (P) How much money did Florida appropriate to match under the College Facility Enhancement Matching Statute each year from July 1, 2008 to present?
- (Q) How much in private donations were eligible for matching under the University Major Gifts Matching Statute each year from July 1, 2008 to present?
- (R) How much did the Department of Education request under the University Major Gifts Matching Statute each year from July 1, 2008 to present?
- (S) How much money did Florida appropriate to match under the University Major Gifts Matching Statute each year from July 1, 2008 to present?
- (T) How much in private donations were eligible for matching under the University Facility Enhancement Matching Statute each year from July 1, 2008 to present?

- (U) How much did the Department of Education request under the University Facility Enhancement Matching Statute each year from July 1, 2008 to present?
- (V) How much money did Florida appropriate to match under the University Facility Enhancement Matching Statute each year from July 1, 2008 to present?
- (W) Were the pledges or donations intended to benefit Plaintiffs and members of the Student Class as third party intended beneficiaries?
- (X) Did the pledges or donations incorporate by reference the four matching statutes?
- (Y) Did Defendants violate the terms of intended third party beneficiary contracts with donors by failing to match under the matching statutes each year there was no revenue shortfall and to the extent that matching would not cause a revenue shortfall?
- (Z) Did Defendants violate Article III, § 12 of the Fla. Const. by failing to match under the matching statutes each year there was no revenue shortfall and to the extent that matching would not cause a revenue shortfall?
- (AA) Did Defendants violate Article IX, § 1 of the Fla. Const. by failing to match under the matching statutes each year there was no revenue shortfall and to the extent that matching would not cause a revenue shortfall?
- (BB) How much does the State owe in matching funds for private donations?

169. Plaintiffs are members of the Student Class and committed to prosecuting this action. Plaintiffs have retained competent counsel experienced in class action litigation. The claims of Plaintiffs are typical of the claims of the other members of the Student Class. Plaintiffs do not have interests antagonistic to or in conflict with those they seek to represent. Plaintiffs are therefore adequate representatives of each class. And on information and belief, the Florida public colleges and universities are reluctant to sue Defendants because Defendants control other appropriations received each year.

170. The prosecution of separate claims by individual members of the Student Class would create a risk of inconsistent or varying adjudications concerning individual members of the Class that would establish inconsistent standards of conduct for any parties opposing the Class. None of the factual or legal issues concerning liability turn on issues individual to class members; rather, those liability issues affect all of the class members.

171. Defendants have acted or refused to act on grounds generally applicable to all the members of the Student Class, thereby making final injunctive relief or declaratory relief concerning the Student Class as a whole appropriate.

172. The likelihood of individual class members prosecuting separate, individual actions is remote due to the relatively small loss suffered by each Class member as compared to the burden and expense of prosecuting litigation of this nature and magnitude. Absent a class action, Defendants are likely to avoid liability for their wrongdoing, and Class members are unlikely to obtain redress for their wrongs alleged herein. No difficulties are likely to be encountered in the management of the Class claims. This Court is an appropriate forum for this dispute.

173. Defendants have acted on grounds generally applicable to the Class with respect to the matters complained of here, making appropriate the relief sought here with respect to the Class as a whole.

COUNT I—VIOLATIONS OF FLA. CONST., ARTICLE III, § 12

(All Defendants)

174. Plaintiffs Alexis and Ryan Geffin re-allege paragraphs 1 through 162.

175. Article III, § 12 of the Florida Constitution provides: “*Laws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject.*”

176. The Florida Supreme Court has long held that “an appropriations bill cannot amend an existing statute on subjects other than appropriations” and the appropriations bill may only contain a “qualification or restriction if it directly and rationally relates to the purpose of an appropriation and, indeed, if the qualification or restriction is a major motivating factor behind the enactment of the appropriation.” *Brown v. Firestone*, 382 So. 2d 654, 664 (Fla. 1980).

177. The Florida Supreme Court has repeatedly interpreted Article III, § 12 as prohibiting line items in appropriations bills from altering the funding formulas in the underlying substantive law.¹⁹⁵

178. The four matching statutes all established formulas for matching private donations if there is no general revenue shortfall and to the extent that matching will not cause a general revenue shortfall.

179. For the budgets for the fiscal years beginning July 1, 2008 through June 30, 2012, the state had multi-billion dollar general revenue shortfalls. The matching statutes therefore did not require matching in those years but, as Defendants recognized, carried forward to a fiscal year in which there was no general revenue shortfall and to the extent that matching would not cause a general revenue shortfall.

180. In the budget for the fiscal year from July 1, 2012 to June 30, 2013 there was a projected revenue surplus of \$273,800,000 and an actual surplus, and therefore Defendants were obligated to request and to appropriate the surplus to fund their matching obligations.

181. In the budget for the fiscal year from July 1, 2013 to June 30, 2014, there was a projected revenue surplus of \$71,300,000 and an actual surplus, and therefore Defendants were obligated to appropriate the surplus to fund their matching obligations.

¹⁹⁵ See, e.g., *Chiles v. Milligan*, 659 So. 2d 1055, 1056 (Fla. 1995); *Murray v. Lewis*, 576 So. 2d 264, 264, 266 (Fla. 1990); *Dep’t of Educ. v. Lewis*, 416 So. 2d 455, 460 (Fla. 1982).

182. In the budget for the fiscal year from July 1, 2014 to June 30, 2015, there was a projected surplus and an actual surplus of well over \$800 million. By June 30, 2015 the State had an obligation to request and to appropriate the full, remaining amount owed under the four matching statutes.

183. Governor Rick Scott's proposed budget, the House's appropriation bills, the Senate's appropriations bills, the Conference Committee reports, and the final General Appropriation Acts for the fiscal years starting July 1, 2012, July 1, 2013, July 1, 2014, July 1, 2015, and July 1, 2016 each allocated *no* funds under any of the matching statutes.

184. Defendants' refusal to include in the General Appropriation Acts for the fiscal years from July 1, 2012 through June 30, 2017 sufficient money to cover its accumulated obligations under the matching statutes means that those appropriations bills unconstitutionally amended existing statutes on subjects other than appropriations and altered the funding formulas set forth in the underlying substantive law in violation of Article II, section 12.

185. Article III, § 12 is self-enforcing because it lays down a sufficient rule by which its purpose may be determined and protected without the passage of a statute. Article III, § 12, as a constitutional constraint on the Legislature and the Governor, must also be independently enforceable for it to bind those entities: leaving enforcement up to their discretionary decision to pass a statute would allow them to override a constitutional constraint on their own power.

186. The State has conceded that there is a State matching backlog of over \$600 million. The Florida Efficiency Task Force has explained that failing to match has also prevented over \$460 million in private donations from going to Florida's public universities. Plaintiffs have therefore suffered over \$1 billion in damages.

187. The Plaintiff class has no adequate legal remedy and has been irreparably harmed.

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- (A) Declaring this action to be a class action and certifying Plaintiffs as the Class representatives and Plaintiffs' counsel as Class counsel;
- (B) Enjoining Defendants from enacting additional appropriations bills without satisfying their obligations under the matching statutes;
- (C) In the alternative, granting declaratory judgment;
- (D) In the alternative, granting a writ of mandamus against the Department of Education, the State Board of Education, and the Commissioner of Education;
- (E) In the alternative, granting any necessary equitable relief to remedy the harm done, including any necessary writs;
- (F) Awarding fees and costs; and
- (G) Granting such other and further relief as the Court may deem just and proper.

COUNT II—BREACH OF CONTRACT

(All Defendants)

188. Plaintiffs Alexis and Ryan Geffin re-allege paragraphs 1 through 162.

189. As explained, donors wrote checks to public colleges and their foundations as either the payee or co-payee for aid, scholarships, or some combination.

190. Indeed, most, if not all, donations were made pursuant to writings exchanged with the donors. The Internal Revenue service imposes record-keeping obligations on donors claiming federal tax deductions that would require writings, and it imposes record-keeping obligations on the recipients of tax-free donations that would require writings. All of the colleges and universities, or their affiliated foundations, have writings on their websites such as pledge forms, gift agreements, or online donation forms.

191. Defendants and the donors, by contracting on a subject surrounded by the matching statutes' limitations and requirements, are presumed to have entered into their

agreements with reference to those statutes, which enter into and become a part of the contract. The provisions of the matching statutes govern and would override any inconsistent provisions.

192. Each of the four matching statutes, interpreted as a whole, requires the payment of the accumulated state matching funds owed absent a general revenue shortfall and to the extent payment will not cause a general revenue shortfall. That gives meaning to the mandatory language of the matching statutes — “shall” and “must” — while also giving meaning to the portions of the statutes that recognize not all of the funds may be appropriated in a given fiscal year.

193. In 2011, the matching statutes were amended to read: “Effective July 1, 2011, state matching funds are *temporarily suspended for donations received for this program on or after June 30, 2011*. Existing eligible donations remain eligible for future matching funds. The program may be restarted after \$200 million of the backlog for programs . . . have been matched.” Fla. Stat. § 1011.85(13).

194. Any suspension is inapplicable to donations received before July 1, 2011. Even for donations received after that date, the 2011 amendment, passed in the midst of an enormous general revenue deficit, only confirms that matching funds need not be requested or appropriated in the event of a general revenue shortfall or to the extent appropriations would cause a general revenue shortfall. Such a construction is consistent with the Florida Constitution, consistent with the other provisions of the matching statutes, and avoids a repeal by implication.

195. Defendants have materially breached the terms of the matching statutes, and thus the writings incorporating them, by failing to fund their matching obligations.

196. Students were the intended third party beneficiaries under the donors’ contracts because the students were the direct beneficiaries of any money for scholarships or financial aid. Students were also the intended third party beneficiaries under those contracts because any donations toward capital improvements, facilities improvements, teaching endowments, or new

buildings would have benefited the students. The students, as intended third party beneficiaries and the donors, as promisees, both have standing to sue for breach of contract.

197. As explained in Paragraphs 16 and 112, Plaintiffs Ryan and Alexis Geffin used and would have benefitted from improvements to facilities throughout the University of Florida campus including the Computer Sciences Engineering building and the Harn Museum, facilities for which the Board of Governors requested a match.

198. Defendants have conceded that there is a State matching backlog of over \$600 million. The Florida Government Efficiency Task force has explained that failing to match has also prevented over \$460 million in private donations from going to Florida's public universities. Plaintiffs have therefore suffered over \$1 billion in damages.

199. In the alternative, were the Court to rule that Plaintiffs could not recover damages, Plaintiffs would be entitled to an injunction because Plaintiffs would not have an adequate legal remedy and have been irreparably harmed both by the distortion of the political process and because Florida's public colleges, universities, and their students have been deprived of over \$1 billion.

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- (A) Declaring this action to be a class action and certifying Plaintiffs as the Class representatives and Plaintiffs' counsel as Class counsel;
- (B) Enjoining Defendants from enacting additional appropriations bills without satisfying their obligations under the matching statutes;
- (C) In the alternative, granting declaratory judgment;
- (D) In the alternative, granting a writ of mandamus against the Department of Education, the State Board of Education, and the Commissioner of Education;
- (E) In the alternative, granting any necessary equitable relief to remedy the harm done, including any necessary writs;

- (F) Awarding fees and costs; and
- (G) Granting such other and further relief as the Court may deem just and proper.

COUNT III—VIOLATIONS OF FLA. CONST., ARTICLE IX, § 1(A)

(All Defendants)

200. Plaintiffs Alexis and Ryan Geffin re-allege paragraphs 1 through 162.

201. Article IX, section 1(a) of the Fla. Const. provides:

The education of children is a *fundamental value* to the people of the State of Florida. It is, therefore, a *paramount duty* of the state to make adequate provision for the education of all children residing within its borders. *Adequate provision shall be made by law for a uniform, efficient, safe, secure, and high quality system of free public schools that allows students to obtain a high quality education and for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.*

202. The State’s unelected officials have recognized the inadequacy of Florida’s investment in higher education while elected officials have falsely trumpeted a degree of support that does not exist. For Florida’s families, to leave the State for higher education funded by other states requires out of state tuition. The State’s failure to fund the matching gifts obligations simply exacerbates that problem. The College and University Facility Enhancement statutes and the Department of Education have recognized that current college and university facilities are not “sufficient” and matching is “necessary” to make them sufficient.

203. During the Great Recession—in addition to failing to match—the Governor and Legislature slashed funding for higher education while enrollment and tuition increased.

204. Even in the fiscal year from July 1, 2012 to June 30, 2013, when the State enjoyed a surplus of hundreds of millions of dollars, it used general revenues to cut taxes by \$2.5 billion over the next three years instead of funding the match. And it then cut funding to colleges and universities by \$300 million.

205. Overall from fiscal year 2008 through fiscal year 2013, the State cut spending at four-year institutions by over forty-one percent while increasing tuition by sixty-seven percent.

206. By the spring of 2016, tuition at Florida's four-year colleges and universities remained 64.3 percent higher than before the beginning of the Great Recession.

207. The State still has not appropriated the over \$600 million in State funds it owes.

208. By diverting over \$600 million in surplus general revenues from facilities improvements, aid, and scholarships for multi-billion dollar tax cuts, Defendants have violated the Constitutional requirement that they make "[a]dequate provision" for "the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require."

209. Article IX, § 1(a) is self-enforcing because it lays down a sufficient rule by which its purpose may be determined and protected without the passage of a statute. Article IX, section 1(a), as a constitutional constraint on the Legislature and the Governor, must also be independently enforceable for it to bind those entities: leaving enforcement up to their discretionary decision to pass a statute would allow them to override a constitutional constraint on their own power.

210. The State has conceded that there is a State matching backlog of over \$600 million. The Florida Government Efficiency Task Force has explained that failing to match has also prevented over \$460 million in private donations from going to Florida's public universities.

211. The Plaintiff class is entitled to an injunction because there is no adequate legal remedy and class members have been and are being irreparably harmed.

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- (A) Declaring this action to be a class action and certifying Plaintiffs as the Class representatives and Plaintiffs' counsel as Class counsel;
- (B) Enjoining Defendants from enacting additional appropriations bills without satisfying their obligations under the matching statutes;
- (C) In the alternative, granting declaratory judgment;

- (D) In the alternative, granting a writ of mandamus against the Department of Education, the State Board of Education, and the Commissioner of Education;
- (E) In the alternative, granting any necessary equitable relief to remedy the harm done, including any necessary writs;
- (F) Awarding fees and costs; and
- (G) Granting such other and further relief as the Court may deem just and proper.

COUNT IV—DECLARATORY RELIEF

(All Defendants)

212. Plaintiffs Alexis and Ryan Geffin re-allege paragraphs 1 through 162.

213. Plaintiffs seek a declarations that, under chapter 86, Florida Statutes, in the alternative: (a) Article III, § 12 of the Florida Constitution has been violated by the failure to provide matching funds; (b) contracts with donors and the intended beneficiaries in the Student Class have been materially breached and continue to be materially breached by the failure to provide matching funds; and (c) Article III, § 12 of the Florida Constitution has been violated and continues to be violated by the failure to make adequate provision for the institutions of higher learning that the needs of the people may require.

214. Plaintiffs are entitled to a declaration that Defendants the Governor, the Florida Senate President, and the Florida Speaker of the House, have violated and continue to violate Article III, § 12 of the Florida Constitution by failing to provide matching funds as required by each of the Matching Fund Statutes because there exists a bona fide, actual, and present practical need for a declaration and a present controversy; Plaintiffs' rights are dependent upon the facts and law applicable to this case; the parties have actual, present, adverse, and antagonistic interests in the subject matter of this action; all parties who have an antagonistic and adverse interest are before the court by proper process or class representation; and a bona fide dispute

between the Plaintiffs and Defendants exists such that the Plaintiffs do not merely seek legal advice for the following reasons:

- (H) The Defendants' defunding has created an ongoing over \$1 billion shortfall in funding for public colleges, universities, and their students;
- (I) The Defendants defunding in appropriations bills has permitted them to claim credit for improving higher education in Florida while evading accountability for failing to match and distorting the political process;
- (J) The Defendants' defunding in appropriations bills has permitted them to claim credit for tax cuts while evading accountability for failing to pay all public money owed toward public colleges, universities, and their students and distorted the political process;
- (K) The Defendants defunding in appropriations bills has permitted the State to continue to raise private donations with the prospect for matching enshrined in Florida substantive law;
- (L) The Defendants defunding in appropriations bills for matching dollars owed toward financial aid and scholarships has increased the student debt burden on the Student Class; and
- (M) The Defendants current and continuing failure to request funds and to fund absent a general revenue shortfall and to the extent funding will not cause a general revenue shortfall.

215. Plaintiffs are entitled to a declaration that Defendants have materially breached and continue to materially breach contracts for which members of the Student Class are the intended third party beneficiaries because there exists a bona fide, actual, and present practical need for a declaration and a present controversy; Plaintiffs' rights are dependent upon the facts and law applicable to this case; the parties have actual, present, adverse, and antagonistic

interests in the subject matter of this action; all parties who have an antagonistic and adverse interest are before the court by proper process or class representation; and a bona fide dispute between the Plaintiffs and Defendants exists such that the Plaintiffs do not merely seek legal advice for the following reasons:

- (A) The Defendants' defunding has created an ongoing over \$1 billion shortfall in funding for public colleges, universities, and their students;
- (B) The Defendants' defunding without amending the substantive statutes has violated the implied terms of contract pursuant to private donations were given and slashed the impact of that philanthropy;
- (C) To the extent any potential donors have learned of the Defendants' defunding without amendment, it may have reduced the amount of money given to public colleges, universities, and their students;
- (D) The impact of private donations has been reduced because matching State funds have not been appropriated to benefit Florida's public colleges, universities, and their students;
- (E) The impact of private donations have been reduced because over \$400 million in private donations to public colleges, universities, and their students are sitting in accounts awaiting a match;
- (F) The Defendants defunding in appropriations bills for matching dollars owed toward financial aid and scholarships has increased the student debt burden on the Student Class; and
- (G) The Defendants current and continuing failure to request funds and to fund absent a general revenue shortfall and to the extent funding will not cause a general revenue shortfall.

216. Plaintiffs are entitled to a declaration that Defendants have violated and continue to violate Article III, § 12 of the Florida Constitution by failing to make adequate provision for the institutions of higher learning that the needs of the people may require because there exists a bona fide, actual, and present practical need for a declaration and a present controversy; Plaintiffs' rights are dependent upon the facts and law applicable to this case; the parties have actual, present, adverse, and antagonistic interests in the subject matter of this action; all parties who have an antagonistic and adverse interest are before the court by proper process or class representation; and a bona fide dispute between the Plaintiffs and Defendants exists such that the Plaintiffs do not merely seek legal advice for the following reasons:

- (A) The Defendants' defunding has created an ongoing over \$1 billion shortfall in funding for public colleges, universities, and their students;
- (B) To the extent any potential donors have learned of the Defendants' defunding without amendment, it may have reduced the amount of money given to public colleges, universities, and their students;
- (C) The impact of private donations has been reduced because matching State funds have not been appropriated to benefit Florida's public colleges, universities, and their students;
- (D) The impact of private donations have been reduced because over \$400 million in private donations to public colleges, universities, and their students are sitting in accounts awaiting a match;
- (E) The Defendants defunding in appropriations bills for matching dollars owed toward facilities improvements is contrary to their recognition—in statutes—that such matching dollars were “necessary” “to meet the current demands of their instructional and community programs”;

- (F) The Defendants defunding in appropriations bills for matching dollars owed toward financial aid and scholarships has increased the student debt burden on the Student Class;
- (G) The Defendants defunding in appropriations bills for matching dollars owed has substantially contributed to failing to ease Florida per student tuition and debt that skyrocketed, relative to other states, during the Great Recession; and
- (H) The Defendants current and continuing failure to request funds and to fund absent a general revenue shortfall and to the extent funding will not cause a general revenue shortfall.

WHEREFORE, Plaintiffs are entitled to declarations that, in the alternative: (a) Article III, § 12 of the Florida Constitution has been violated by the failure to provide matching funds; (b) contracts with the donors and the intended beneficiaries in the Student Class have been materially breached and continue to be materially breached by the failure to provide matching funds; and (c) Article III, § 12 of the Florida Constitution has been violated and continues to be violated by the failure to make adequate provision for the institutions of higher learning that the needs of the people may require.

COUNT V—MANDAMUS

(Florida State Board of Education, Board of Governors of the State University System and Pam Stewart in her capacity as Florida Commissioner of Education)

217. Plaintiffs request that that the court issue a writ of mandamus, under Article V, section 5(b) of the Florida Constitution, to Defendants State Board of Education, Board of Governors of the State University System, and Pam Stewart in her capacity as Florida Commissioner of Education ordering them to make budget requests for matching funds due to Florida’s universities and colleges pursuant to the matching statutes.

218. The Education Defendants are “state officers” or “state agencies” and, thus, subject to a writ of mandamus issued by this court.

219. The Benjamin College Matching Statute provides: “The program shall be administered according to the rules of the State Board of Education and used to encourage private support in enhancing Florida College System institutions by providing the College System with the opportunity to receive and match challenge grants.” Fla. Stat. § 1011.85(1). It further provides: “Each year, eligible contributions received by a Florida College System institution’s foundation or the State Board of Education by February 1 shall be eligible for state matching funds.” Fla. Stat. § 1011.85(4). It also provides: “All unmet contributions shall be eligible for state matching funds in subsequent years.” Fla. Stat. § 1011.85(8)(b).

220. The College Facility Enhancement Matching Statute provides: “By October 15 of each year, the State Board of Education shall transmit to the Governor and the Legislature a list of projects that meet all eligibility requirements to participate in the Florida College System Institution Facility Enhancement Challenge Grant Program and a budget request that includes the recommended schedule necessary to complete each project.” Fla. Stat. § 1011.32(8).

221. The University Major Gifts Matching Statute provides: “The Board of Governors shall 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 the proceeds from endowments, and criteria used in determining the value of donations.” Fla. Stat. § 1011.94(2). It further provides “[d]onations for a specific purpose must be matched” according to a matching formula. Fla. Stat. § 1011.94(3)(b). It also provides: “The Board of Governors shall encumber state matching funds for any pledged contributions, pro rata, based on the requirements for state matching funds as specified for the particular challenge grant and the amount of the private donations actually received by the university for the respective challenge grant.” Fla. Stat. § 1011.94(5)(c).

222. The University Facility Enhancement Matching Statute provides: “By October 15 of each year, the Board of Governors shall transmit to the Legislature a list of projects that meet

all eligibility requirements to participate . . . and a budget request that includes the recommended schedule necessary to complete each project.” Fla. Stat. § 1011.79(8).

223. Plaintiffs have a clear legal right to such matching requests for three, independent reasons: (a) Article III, § 12 of the Florida Constitution has been violated by the failure to provide matching funds; (b) contracts with the donors and the intended beneficiaries in the Student Class have been materially breached and continue to be materially breached by the failure to provide matching funds; and (c) Article III, § 12 of the Florida Constitution has been violated and continues to be violated by the failure to make adequate provision for the institutions of higher learning that the needs of the people may require.

224. Plaintiffs plead, in the alternative, that if the act of making the budget requests is ministerial they are entitled to mandamus. The Education Defendants have made budget requests in the past when matching funds were due to the universities and colleges, but failed to request any funds under the Matching Fund Statutes for fiscal years 2014-2015, 2015-2016, 2016-2017, or 2017-18.

WHEREFORE, in the alternative, that if the Defendants Governor, Speaker of the House, and Senate President use the failure of the Education Defendants to make matching requests as a defense to liability, then a writ of mandamus may enable them to appropriate matching funds, satisfy the single-subject requirement, comply with the State’s contracts, and satisfy their constitutional obligation to make adequate provision for institutions of higher learning that the needs of the people require.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs demand judgment against Defendants as follows:

- (A) Declaring this action to be a class action and certifying Plaintiffs as the Class representatives and Plaintiffs’ counsel as Class counsel;

- (B) Enjoining Defendants from enacting additional appropriations bills without satisfying their obligations under the matching statutes;
- (C) In the alternative, granting declaratory judgment;
- (D) In the alternative, granting a writ of mandamus against the Department of Education, the State Board of Education, and the Commissioner of Education;
- (E) In the alternative, granting any necessary equitable relief to remedy the harm done, including any necessary writs;
- (F) Awarding fees and costs; and
- (G) Granting such other and further relief as the Court may deem just and proper.

Date: June 30, 2017

Respectfully submitted,

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