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2 A memorial to notify the Federal Government of
3 colleges and universities in this state which are
4 authorized to operate educational programs beyond the
5 secondary level.

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7 WHEREAS, On October 29, 2010, the United States Department
8 of Education issued its Final Rule on Program Integrity Issues,
9 75 Federal Register 66832 et seq., which includes amendments to
10 regulations at 34 Code of Federal Regulations s.
11 600.9(a)(1)(i)(A) requiring that educational institutions not
12 created by the state be "established by name as an educational
13 institution by a State through a charter, statute,
14 constitutional provision, or other action..." and be "authorized
15 to operate educational programs beyond secondary level,
16 including programs leading to a degree or certificate," and

17 WHEREAS, the Legislature chose to exempt from the
18 jurisdiction or purview of the Commission for Independent
19 Education "any institution that is under the jurisdiction of the
20 Department of Education, eligible to participate in the William
21 L. Boyd, IV, Florida Resident Access Grant Program and that is a
22 nonprofit independent college or university located and
23 chartered in this state and accredited by the Commission on
24 Colleges of the Southern Association of Colleges and Schools to
25 grant baccalaureate degrees," pursuant to s. 1005.06(1)(c),
26 Florida Statutes, and

27 WHEREAS, all institutions exempted from the jurisdiction or
28 purview of the Commission for Independent Education through
29 accreditation by the Commission on Colleges of the Southern

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30 Association of Colleges and Schools must meet state requirements
31 regarding fair consumer practices under s. 1005.04, Florida
32 Statutes, meet annual reporting requirements with respect to
33 crime statistics and physical plant safety under ss.

34 1005.04(1) (g) and 1013.11, Florida Statutes, and adopt hazing
35 policies and rules under s. 1006.63, Florida Statutes, and

36 WHEREAS, all institutions that are exempt from the
37 jurisdiction or purview of the Commission for Independent
38 Education under s. 1005.06(1) (c), Florida Statutes, may
39 participate in one or more state-funded student financial aid
40 programs subject to audit by the Florida Department of
41 Education, including, but not limited to, the Florida Private
42 Student Assistance Grant Program pursuant to s. 1009.51, Florida
43 Statutes, the Florida Bright Futures Scholarship Program
44 pursuant to s. 1009.53, Florida Statutes, and the William L.
45 Boyd, IV, Florida Resident Access Grant Program pursuant to s.
46 1009.89, Florida Statutes, and

47 WHEREAS, the institutions that are eligible to participate
48 in Florida's student financial aid programs include: Ave Maria
49 University, Barry University, Beacon College, Bethune-Cookman
50 University, Clearwater Christian College, Eckerd College, Edward
51 Waters College, Embry-Riddle Aeronautical University, Flagler
52 College, Florida College, Florida Hospital College of Health
53 Sciences, Florida Institute of Technology, Florida Memorial
54 University, Florida Southern College, Hodges University,
55 Jacksonville University, Lynn University, Nova Southeastern
56 University, Palm Beach Atlantic University, Ringling College of
57 Art and Design, Rollins College, Saint Leo University,
58 Southeastern University, St. Thomas University, Stetson

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59 University, University of Miami, University of Tampa, Warner
60 University, Webber International University, Keiser University,
61 and Everglades University, NOW, THEREFORE,

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63 Be It Resolved by the Legislature of the State of Florida:

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65 That the 2011 Florida Legislature respectfully informs the
66 United States Department of Education that the colleges and
67 universities named in this memorial are authorized to operate
68 educational programs beyond the secondary level.

69 BE IT FURTHER RESOLVED that copies of this memorial be
70 dispatched to each college and university named in this
71 memorial, to the United States Secretary of Education, to the
72 President of the United States, to the President of the United
73 States Senate, to the Speaker of the United States House of
74 Representatives, and to each member of the Florida delegation to
75 the United States Congress.

FINAL BILL ANALYSIS

BILL #: CS/SM 1654

FINAL HOUSE FLOOR ACTION:
Passed on Voice Vote

SPONSOR: Sen. Wise (Rep. Hudson)

GOVERNOR'S ACTION:
N/A

COMPANION BILLS: CS/CS/HM 1445

SUMMARY ANALYSIS

SM 1654 passed the House on May 3, 2011. The House Memorial informs the U.S. Department of Education that the thirty-one independent colleges and universities listed in the memorial are authorized to operate educational programs beyond the secondary level in Florida.

The Higher Education Act (HEA) was enacted in 1965 to provide greater opportunities for students to achieve higher education. Title IV of the HEA authorizes the federal student aid programs. Pursuant to a new regulation adopted by the United States Department of Education on October 29, 2010, an institution applying to participate in a federal program under the HEA must demonstrate by July 1, 2011, that it has the legal authority to offer postsecondary education. In the absence of such legal authority, the institution will not be eligible to participate in the federal student aid programs.

The House Memorial does not amend, create, or repeal any provisions of the Florida Statutes.

The House Memorial does not have a fiscal impact on state or local governments.

I. SUBSTANTIVE INFORMATION

Background

Federal Higher Education Act

The Higher Education Act (HEA) was enacted in 1965 to provide greater opportunities for students to achieve higher education.¹ Subsequent reauthorizations and amendments to the HEA have continued to expand this initiative.² Title IV of the HEA authorizes the federal student aid programs, which include federal grants, loans, and work-study programs.³

On October 29, 2010, under the provisions of the HEA, the United States Department of Education (USDOE) adopted a new regulation to improve the integrity in the programs authorized under Title IV.⁴ The regulation, among other things, requires that an institution be "established by name as an educational institution by a State through a charter, statute, constitutional provision, or other action issued by an appropriate State agency or State entity to operate educational programs beyond secondary education, including programs leading to a degree or certificate."⁵

Any institution applying to participate in a federal program under the HEA must demonstrate by July 1, 2011, that it has the legal authority to offer postsecondary education. In the absence of such legal authority, the institution will not be eligible to participate in the federal student aid programs.⁶

Eligibility of Institutions to Offer Postsecondary Education in Florida

A number of postsecondary institutions in Florida already meet the new federal requirement that they be established by name as an educational institution offering postsecondary education. These institutions are established by name either in the Florida Statutes or in a license that is issued by the State. Currently, eleven state universities and twenty-eight institutions within the Florida College System are established by name in law to offer postsecondary education in Florida.⁷ Certain independent postsecondary educational institutions are also authorized by the State to grant postsecondary diplomas and degrees by virtue of obtaining a license from the Commission for Independent Education (CIE).⁸

However, there are thirty-one nonprofit independent colleges and universities providing postsecondary education that are not established by name in the Florida Statutes and are not required to be licensed to operate educational programs beyond secondary education. These

¹ Jodi L. Edelson, *Higher Education To Higher Default: A Re-examination of the Guaranteed Student Loan Program*, 11 ANN. REV. BANKING L. 475, 476-477 (1992).

² FinAid, *Reauthorization of the Higher Education Act of 1965*, available at, <http://www.finaid.org/educators/reauthorization.phtml> (last visited April 1, 2011).

³ U.S. Department of Education, Federal Student Aid Gateway, *About Federal Student Aid*, available at, <http://federalstudentaid.ed.gov/about/index.html> (last visited April 1, 2011).

⁴ 34 C.F.R. s. 600.9; *see also* 75 FR 66832 (Oct. 29, 2010).

⁵ 34 C.F.R. s. 600.9(a)(1)(i)(A).

⁶ 75 FR 66832 and 66859 (Oct. 29, 2010).

⁷ Section 1000.21(3) and (6), F.S.

⁸ Section 1005.21(1), F.S. Pursuant to s. 1005.21(2), F.S., the Commission for Independent Education within the Florida Department of Education functions "in matters concerning independent postsecondary educational institutions in consumer protection, program improvement, and licensure for institutions under its purview."

independent colleges and universities are exempt from licensure because they meet the following criteria:

- Institution is eligible to participate in the William L. Boyd, IV, Florida Resident Access Grant program (FRAG);⁹
- Institution is a nonprofit independent college or university;
- Institution is located and chartered in this state; and
- Institution is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools (SACS) to grant baccalaureate degrees.¹⁰

Other States

Memorials/resolutions similar to the one offered in CS/HM 1445 are being proposed in the Texas and California State Legislature.¹¹ The two states are similar to Florida in that nonprofit private institutions in Texas and California are exempt from state licensure pursuant to regional accreditation, and are therefore not established by name under their state law.

A. EFFECT OF CHANGES:

The memorial names the following thirty-one independent colleges and universities in Florida that are not under the purview of the Commission for Independent Education, are exempt from obtaining licensure, are accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, and are eligible to participate in Florida's student financial aid programs: Ave Maria University, Barry University, Beacon College, Bethune-Cookman University, Clearwater Christian College, Eckerd College, Edward Waters College, Embry-Riddle Aeronautical University, Flagler College, Florida College, Florida Hospital College of Health Sciences, Florida Institute of Technology, Florida Memorial University, Florida Southern College, Hodges University, Jacksonville University, Lynn University, Nova Southeastern University, Palm Beach Atlantic University, Ringling College of Art and Design, Rollins College, Saint Leo University, Southeastern University, St. Thomas University, Stetson University, University of Miami, University of Tampa, Warner University, Webber International University, Keiser University, and Everglades University. By naming these independent colleges and universities in law as authorized to operate educational programs beyond the secondary level in Florida, the memorial meets a requirement of the federal regulation that will allow the institutions to continue to participate in federal student aid programs.¹²

The memorial provides that the Florida Legislature inform the USDOE that the colleges and universities named in the memorial are authorized to operate educational programs beyond the secondary level. The memorial will be dispatched to each college and university named in the memorial, to the United States Secretary of Education, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

⁹ Section 1009.89, F.S. The William L. Boyd, IV, Florida Resident Access Grant (FRAG) program provides tuition assistance to Florida undergraduate students attending an eligible private, nonprofit college or university in Florida. One of the thirty-one independent institutions, Keiser University, will become eligible for FRAG during the 2011-12 fiscal year. Telephone interview with staff from the Florida Department of Education (April 1, 2011).

¹⁰ Section 1005.06(l)(c), F.S.

¹¹ Texas House Joint Resolution 130 and draft of California Resolution is on file with House Education Committee staff.

¹² 34 C.F.R. s. 600.9(a)(l)(i)(A).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None
2. Expenditures: None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None
2. Expenditures: None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None

D. FISCAL COMMENTS: None