

By the Committee on Community Affairs; and Senator Bennett

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1 A bill to be entitled
2 An act relating to domestic security; amending s.
3 163.3175, F.S.; specifying the military installations,
4 and the local governments associated with those bases,
5 to which certain provisions of the act apply;
6 authorizing the Florida Council on Military Base and
7 Mission Support to recommend changes to military
8 installations and local governments; requiring
9 affected local governments to transmit to the
10 commanding officer of a military installation
11 information relating to certain proposed changes to
12 comprehensive plans and land development regulations;
13 requiring local governments to transmit, at the
14 request of a commanding officer, copies of
15 applications for development orders requesting
16 specified variances or waivers within a zone of
17 influence of a military installation; requiring a
18 local government, military installation, the state
19 land planning agency, and other parties to enter into
20 mediation if a local government does not adopt
21 criteria and address compatibility issues relating to
22 lands adjacent to or closely proximate to existing
23 military installations in its future land use plan
24 element of a comprehensive plan by a specified date;
25 authorizing notification of the Administration
26 Commission if the local government comprehensive plan
27 does not contain criteria addressing compatibility by
28 a specified date; authorizing the imposition of
29 sanctions by the commission; eliminating definitions;

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30 amending s. 163.3177, F.S.; specifying factors used to
31 achieve compatibility of lands adjacent to military
32 installations in a future land use plan element of a
33 comprehensive plan; amending s. 196.061, F.S.;
34 providing that valid military orders transferring a
35 military servicemember are sufficient to maintain
36 permanent homestead residence status; amending s.
37 311.12, F.S.; revising provisions relating to seaport
38 security; prohibiting a seaport from charging any fee
39 for administration or production of access control
40 credentials; providing for a fine; deleting certain
41 provisions relating to seaport security plans;
42 deleting provisions requiring that the Department of
43 Law Enforcement administer a statewide seaport access
44 eligibility reporting system; deleting provisions
45 requiring that persons seeking authorization to access
46 secure and restricted areas of a seaport execute an
47 affidavit; deleting provisions requiring fingerprint-
48 based criminal history checks on seaport employee
49 applicants, current employees, and other authorized
50 persons; amending s. 455.02, F.S.; authorizing
51 temporary professional licensure by the Department of
52 Business and Professional Regulation of the spouses of
53 certain active duty members of the Armed Forces;
54 providing application requirements; requiring criminal
55 history checks and fees; amending s. 250.10, F.S.;
56 authorizing the Adjutant General to employ a second
57 Assistant Adjutant General for Army; revising
58 accreditation standards for educational institutions

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59 with respect to the Educational Dollars for Duty
60 education assistance program; providing an effective
61 date.

62
63 Be It Enacted by the Legislature of the State of Florida:

64
65 Section 1. Section 163.3175, Florida Statutes, is amended
66 to read:

67 163.3175 Legislative findings on compatibility of
68 development with military installations; exchange of information
69 between local governments and military installations.—

70 (1) The Legislature finds that incompatible development of
71 land close to military installations can adversely affect the
72 ability of the ~~such an~~ installation to carry out its mission.

73 The Legislature further finds that such development also
74 threatens the public safety because of the possibility of
75 accidents occurring within the areas surrounding the a military
76 installation. In addition, the economic vitality of a community
77 is affected when military operations and missions must relocate
78 because of incompatible urban encroachment. Therefore, the
79 Legislature finds it desirable for ~~the~~ local governments ~~in the~~
80 ~~state~~ to cooperate with military installations in order to
81 encourage compatible land use, help prevent incompatible
82 encroachment, and facilitate the continued presence of major
83 military installations in this state.

84 (2) Due to their mission and activities, certain major
85 military installations have a greater potential for experiencing
86 compatibility and coordination issues than others. Consequently,
87 this section and the provisions of s. 163.3177(6) (a), relating

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88 to the compatibility of land development with military
89 installations, apply to the following military installations in
90 association with the following specified local governments:

91 (a) Avon Park Air Force Range, associated with Highlands,
92 Okeechobee, Osceola, and Polk Counties and Avon Park, Sebring,
93 and Frostproof.

94 (b) Camp Blanding, associated with Clay, Bradford, and
95 Putnam Counties.

96 (c) Eglin Air Force Base and Hurlburt Field, associated
97 with Gulf, Okaloosa, Santa Rosa, and Walton Counties and Cinco
98 Bayou, Crestview, Destin, DeFuniak Springs, Fort Walton Beach,
99 Freeport, Laurel Hill, Mary Esther, Niceville, Shalimar, and
100 Valparaiso.

101 (d) Homestead Air Reserve Base, associated with Miami-Dade
102 County and Homestead.

103 (e) Jacksonville Training Range Complex, associated with
104 Lake, Marion, Putnam, and Volusia Counties.

105 (f) MacDill Air Force Base, associated with Tampa.

106 (g) Naval Air Station Jacksonville, Marine Corps Blount
107 Island Command, and outlying landing field Whitehouse,
108 associated with Jacksonville.

109 (h) Naval Air Station Key West, associated with Monroe
110 County and Key West.

111 (i) Naval Support Activity Panama City, associated with Bay
112 County, Panama City, and Panama City Beach.

113 (j) Naval Air Station Pensacola, associated with Escambia
114 County.

115 (k) Naval Air Station Whiting Field and its outlying
116 landing fields, associated with Santa Rosa and Escambia

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117 Counties.

118 (l) Naval Station Mayport, associated with Atlantic Beach
119 and Jacksonville.

120 (m) Patrick Air Force Base and Cape Canaveral Air Force
121 Station, associated with Brevard County and Satellite Beach.

122 (n) Tyndall Air Force Base, associated with Bay County and
123 Mexico Beach and Parker.

124 (3) The Florida Council on Military Base and Mission
125 Support may recommend to the Legislature changes to the military
126 installations and associated local governments specified in
127 subsection (2) based on the military bases' potential for
128 impacts from encroachment and incompatible land use and
129 development.

130 (4)-(2) Each affected local government shall ~~county in which~~
131 ~~a military installation is either wholly or partially located~~
132 ~~and each affected local government must~~ transmit to the
133 commanding officer of an associated military ~~that~~ installation
134 information relating to proposed changes to comprehensive plans,
135 plan amendments, and proposed changes to land development
136 regulations which, if approved, would affect the intensity,
137 density, or use of the land adjacent to or in close proximity to
138 the ~~military~~ installation. At the request of the commanding
139 officer, each affected local government shall also transmit to
140 the commanding officer copies of applications for development
141 orders requesting a variance or waiver from height or lighting
142 restrictions or noise attenuation reduction requirements within
143 areas defined in the local government's comprehensive plan as
144 being in the military installation's zone of influence. Each
145 ~~county and~~ affected local government shall provide the military

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146 installation an opportunity to review and comment on the
147 proposed changes.

148 ~~(5)(3)~~ The commanding officer or a ~~his or her~~ designee may
149 provide comments to the ~~county or~~ affected local government on
150 the impact such proposed changes may have on the mission of the
151 military installation. Such comments may include:

152 (a) If the installation has an airfield, whether the ~~such~~
153 proposed changes will be incompatible with the safety and noise
154 standards contained in the Air Installation Compatible Use Zone
155 (AICUZ) adopted by the military installation for that airfield.~~†~~

156 (b) Whether such changes are incompatible with the
157 Installation Environmental Noise Management Program (IENMP) of
158 the United States Army.~~†~~

159 (c) Whether such changes are incompatible with the findings
160 of a Joint Land Use Study (JLUS) for the area if one has been
161 completed.~~†~~ ~~and~~

162 (d) Whether the military installation's mission will be
163 adversely affected by the proposed actions of the county or
164 affected local government.

165 ~~(6)(4)~~ The ~~county or~~ affected local government shall take
166 into consideration any comments provided pursuant to subsection
167 (5) by the commanding officer or his or her designee ~~when making~~
168 ~~such decision regarding comprehensive planning or land~~
169 ~~development regulation.~~ The ~~county or~~ affected local government
170 shall forward a copy of any ~~such~~ comments regarding
171 comprehensive plan amendments to the state land planning agency.

172 ~~(7)(5)~~ To facilitate the exchange of information provided
173 ~~for~~ in this section, a representative of a military installation
174 acting on behalf of all military installations within that

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175 jurisdiction shall be included as an ex officio, nonvoting
176 member of the county's or affected local government's land
177 planning or zoning board.

178 ~~(8)-(6)~~ The commanding officer is encouraged to provide
179 information about any community planning assistance grants that
180 may be available to a county or affected local government
181 through the federal Office of Economic Adjustment as an
182 incentive for communities to participate in a joint planning
183 process that would facilitate the compatibility of community
184 planning and the activities and mission of the military
185 installation.

186 (9) If, as required under s. 163.3177(6)(a), a local
187 government does not adopt criteria and address the compatibility
188 of lands adjacent to or closely proximate to existing military
189 installations in its future land use plan element by June 30,
190 2012, the local government, the military installation, the state
191 land planning agency, and other parties identified by the
192 regional planning council, including, but not limited to,
193 private landowner representatives, shall enter into mediation
194 conducted pursuant to s. 186.509. If the local government
195 comprehensive plan does not contain criteria addressing
196 compatibility by December 31, 2013, the agency may notify the
197 Administration Commission. The commission may impose sanctions
198 pursuant to s. 163.3184(11).

199 ~~(7) As used in this section, the term:~~

200 ~~(a) "Affected local government" means a municipality~~
201 ~~adjacent to or in close proximity to the military installation~~
202 ~~as determined by the state land planning agency.~~

203 ~~(b) "Military installation" means a base, camp, post,~~

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204 ~~station, airfield, yard, center, home port facility for any~~
205 ~~ship, or other land area under the jurisdiction of the~~
206 ~~Department of Defense, including any leased facility. Such term~~
207 ~~does not include any facility used primarily for civil works,~~
208 ~~rivers and harbors projects, or flood control projects.~~

209 Section 2. Paragraph (a) of subsection (6) of section
210 163.3177, Florida Statutes, is amended to read:

211 163.3177 Required and optional elements of comprehensive
212 plan; studies and surveys.-

213 (6) In addition to the requirements of subsections (1)-(5)
214 and (12), the comprehensive plan shall include the following
215 elements:

216 (a) A future land use plan element designating proposed
217 future general distribution, location, and extent of the uses of
218 land for residential uses, commercial uses, industry,
219 agriculture, recreation, conservation, education, public
220 buildings and grounds, other public facilities, and other
221 categories of the public and private uses of land. Counties are
222 encouraged to designate rural land stewardship areas, pursuant
223 to paragraph (11) (d), as overlays on the future land use map.
224 Each future land use category must be defined in terms of uses
225 included, and must include standards to be followed in the
226 control and distribution of population densities and building
227 and structure intensities. The proposed distribution, location,
228 and extent of the various categories of land use must ~~shall~~ be
229 shown on a land use map or map series which shall be
230 supplemented by goals, policies, and measurable objectives. The
231 future land use plan shall be based upon surveys, studies, and
232 data regarding the area, including the amount of land required

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233 to accommodate anticipated growth; the projected population of
234 the area; the character of undeveloped land; the availability of
235 water supplies, public facilities, and services; the need for
236 redevelopment, including the renewal of blighted areas and the
237 elimination of nonconforming uses which are inconsistent with
238 the character of the community; the compatibility of uses on
239 lands adjacent to or closely proximate to military
240 installations; lands adjacent to an airport as defined in s.
241 330.35 and consistent with s. 333.02; the discouragement of
242 urban sprawl; energy-efficient land use patterns accounting for
243 existing and future electric power generation and transmission
244 systems; greenhouse gas reduction strategies; and, in rural
245 communities, the need for job creation, capital investment, and
246 economic development that will strengthen and diversify the
247 community's economy. The future land use plan may designate
248 areas for future planned development use involving combinations
249 of types of uses for which special regulations may be necessary
250 to ensure development in accord with the principles and
251 standards of the comprehensive plan and this act. The future
252 land use plan element must ~~shall~~ include criteria to be used to
253 achieve the compatibility of lands adjacent or closely proximate
254 to military installations, considering factors identified in s.
255 163.3175(5), and lands adjacent to an airport as defined in s.
256 330.35 and consistent with s. 333.02. In addition, for rural
257 communities, the amount of land designated for future planned
258 industrial use must ~~shall~~ be based on ~~upon~~ surveys and studies
259 that reflect the need for job creation, capital investment, and
260 the necessity to strengthen and diversify the local economies,
261 and may not be limited solely by the projected population of the

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262 rural community. The future land use plan of a county may also
263 designate areas for possible future municipal incorporation. The
264 land use maps or map series must ~~shall~~ generally identify and
265 depict historic district boundaries and ~~shall~~ designate
266 historically significant properties meriting protection. For
267 coastal counties, the future land use element must include,
268 without limitation, regulatory incentives and criteria that
269 encourage the preservation of recreational and commercial
270 working waterfronts as defined in s. 342.07. The future land use
271 element must clearly identify the land use categories in which
272 public schools are an allowable use. When delineating the land
273 use categories in which public schools are an allowable use, a
274 local government shall include in the categories sufficient land
275 proximate to residential development to meet the projected needs
276 for schools in coordination with public school boards and may
277 establish differing criteria for schools of different type or
278 size. Each local government shall include lands contiguous to
279 existing school sites, to the maximum extent possible, within
280 the land use categories in which public schools are an allowable
281 use. The failure by a local government to comply with these
282 school siting requirements will result in the prohibition of the
283 local government's ability to amend the local comprehensive
284 plan, except for plan amendments described in s. 163.3187(1)(b),
285 until the school siting requirements are met. Amendments
286 proposed by a local government for purposes of identifying the
287 land use categories in which public schools are an allowable use
288 are exempt from the limitation on the frequency of plan
289 amendments contained in s. 163.3187. The future land use element
290 must ~~shall~~ include criteria that encourage the location of

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291 schools proximate to urban residential areas to the extent
292 possible and ~~shall~~ require that the local government seek to
293 collocate public facilities, such as parks, libraries, and
294 community centers, with schools to the extent possible and to
295 encourage the use of elementary schools as focal points for
296 neighborhoods. For schools serving predominantly rural counties,
297 defined as a county with a population of 100,000 or fewer, an
298 agricultural land use category is eligible for the location of
299 public school facilities if the local comprehensive plan
300 contains school siting criteria and the location is consistent
301 with such criteria. Local governments required to update or
302 amend their comprehensive plan to include criteria and address
303 compatibility of lands adjacent or closely proximate to existing
304 military installations, or lands adjacent to an airport as
305 defined in s. 330.35 and consistent with s. 333.02, in their
306 future land use plan element shall transmit the update or
307 amendment to the state land planning agency by June 30, 2012.

308 Section 3. Section 196.061, Florida Statutes, is amended to
309 read:

310 196.061 Rental of homestead to constitute abandonment.—

311 (1) The rental of an entire dwelling previously claimed to
312 be a homestead for tax purposes constitutes ~~shall constitute~~ the
313 abandonment of said dwelling as a homestead, and such ~~said~~
314 abandonment continues ~~shall continue~~ until the ~~such~~ dwelling is
315 physically occupied by the owner ~~thereof~~. However, such
316 abandonment ~~of such homestead~~ after January 1 of any year does
317 ~~shall~~ not affect the homestead exemption for tax purposes for
318 that particular year if so long as ~~if so long as~~ this provision is not used
319 for 2 consecutive years. ~~The provisions of~~

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320 (2) This section does ~~shall~~ not apply to a member of the
321 Armed Forces of the United States whose service in such forces
322 is the result of a mandatory obligation imposed by the federal
323 Selective Service Act or who volunteers for service as a member
324 of the Armed Forces of the United States. Moreover, valid
325 military orders transferring such member are sufficient to
326 maintain permanent residence, for the purpose of s. 196.015, for
327 the member and his or her spouse.

328 Section 4. Section 311.12, Florida Statutes, is amended to
329 read:

330 311.12 Seaport security.—

331 (1) SECURITY STANDARDS.—

332 (a) The statewide minimum standards for seaport security
333 applicable to seaports listed in s. 311.09 shall be those based
334 on the Florida Seaport Security Assessment 2000 and set forth in
335 the Port Security Standards Compliance Plan delivered to the
336 Speaker of the House of Representatives and the President of the
337 Senate on December 11, 2000. The Office of Drug Control within
338 the Executive Office of the Governor shall maintain a sufficient
339 number of copies of the standards at its offices for
340 distribution to the public and provide copies to each affected
341 seaport upon request.

342 (b) A seaport may implement security measures that are more
343 stringent, more extensive, or supplemental to the minimum
344 security standards established by this subsection. However, a
345 seaport may not charge any fee for the administration or
346 production of any access control credentials in addition to the
347 fee for the federal Transportation Worker Identification
348 Credential (TWIC). Any cost associated with the administration

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349 or production of any access card, except for the federal TWIC,
350 must be paid by the administering authority. Any attempt to pass
351 the cost of such a credential on to any employee working on the
352 seaport shall result in a civil fine of \$10,000.

353 (c) The provisions of s. 790.251 are not superseded,
354 preempted, or otherwise modified in any way by the provisions of
355 this section.

356 (2) EXEMPTION.—The Department of Law Enforcement may exempt
357 all or part of a seaport listed in s. 311.09 from the
358 requirements of this section if the department determines that
359 activity associated with the use of the seaport or part of the
360 seaport is not vulnerable to criminal activity or terrorism. The
361 department shall periodically review such exemptions to
362 determine if there is a change in use. Such change may warrant
363 removal of all or part of the exemption.

364 (3) SECURITY PLAN.—Each seaport listed in s. 311.09 shall
365 adopt and maintain a security plan specific to that seaport
366 which provides for a secure seaport infrastructure that promotes
367 the safety and security of state residents and visitors and the
368 flow of legitimate trade and travel.

369 (a) Every 5 years after January 1, 2007, each seaport
370 director, with the assistance of the Regional Domestic Security
371 Task Force and in conjunction with the United States Coast
372 Guard, shall revise the seaport's security plan based on the
373 director's ongoing assessment of security risks, the risks of
374 terrorist activities, and the specific and identifiable needs of
375 the seaport for ensuring that the seaport is in substantial
376 compliance with the minimum security standards established under
377 subsection (1).

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378 (b) Each adopted or revised security plan must be reviewed
379 and approved by the Office of Drug Control and the Department of
380 Law Enforcement for compliance with federal facility security
381 assessment requirements under 33 C.F.R. s. 105.305 and the
382 minimum security standards established under subsection (1).
383 Within 30 days after completion, a copy of the written review
384 shall be delivered to the United States Coast Guard, the
385 Regional Domestic Security Task Force, and the Domestic Security
386 Oversight Council.

387 (4) SECURE AND RESTRICTED AREAS.—Each seaport listed in s.
388 311.09 must clearly designate in seaport security plans, and
389 clearly identify with appropriate signs and markers on the
390 premises of a seaport, all secure and restricted areas as
391 defined by the United States Department of Homeland Security—
392 United States Coast Guard Navigation and Vessel Inspection
393 Circular No. 03-07 and 49 C.F.R. part 1572. ~~The plans must also~~
394 ~~address access eligibility requirements and corresponding~~
395 ~~security enforcement authorizations.~~

396 (a) The seaport's security plan must set forth the
397 conditions and restrictions to be imposed on persons employed
398 at, doing business at, or visiting the seaport who have access
399 to secure and restricted areas which are sufficient to provide
400 substantial compliance with ~~the minimum security standards~~
401 ~~established in subsection (1) and federal regulations.~~

402 1. All seaport employees and other persons working at the
403 seaport who have regular access to secure or restricted areas
404 must comply with federal access control regulations ~~and state~~
405 ~~criminal history checks~~ as prescribed in this section.

406 2. All persons and objects in secure and restricted areas

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407 are subject to search by a sworn state-certified law enforcement
408 officer, a Class D seaport security officer certified under
409 Maritime Transportation Security Act guidelines and s. 311.121,
410 or an employee of the seaport security force certified under the
411 Maritime Transportation Security Act guidelines and s. 311.121.

412 3. Persons found in these areas without the proper
413 permission are subject to the trespass provisions of ss. 810.08
414 and 810.09.

415 (b) As determined by the seaport director's most current
416 risk assessment under paragraph (3) (a), any secure or restricted
417 area that has a potential human occupancy of 50 persons or more,
418 any cruise terminal, or any business operation that is adjacent
419 to a public access area must be protected from the most probable
420 and credible terrorist threat to human life.

421 (c) The seaport must provide clear notice of the
422 prohibition against possession of concealed weapons and other
423 contraband material on the premises of the seaport. Any person
424 in a restricted area who has in his or her possession a
425 concealed weapon, or who operates or has possession or control
426 of a vehicle in or upon which a concealed weapon is placed or
427 stored, commits a misdemeanor of the first degree, punishable as
428 provided in s. 775.082 or s. 775.083. This paragraph does not
429 apply to active-duty certified federal or state law enforcement
430 personnel or persons so designated by the seaport director in
431 writing.

432 (d) During a period of high terrorist threat level, as
433 designated by the United States Department of Homeland Security
434 or the Department of Law Enforcement, or during an emergency
435 declared at a port by the seaport security director due to

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436 events applicable to that particular seaport, the management or
437 controlling authority of the port may temporarily designate any
438 part of the seaport property as a secure or restricted area. The
439 duration of such designation is limited to the period in which
440 the high terrorist threat level is in effect or a port emergency
441 exists.

442 ~~(5) ACCESS ELIGIBILITY REPORTING SYSTEM. Subject to~~
443 ~~legislative appropriations, the Department of Law Enforcement~~
444 ~~shall administer a statewide seaport access eligibility~~
445 ~~reporting system.~~

446 ~~(a) The system must include, at a minimum, the following:~~

447 ~~1. A centralized, secure method of collecting and~~
448 ~~maintaining fingerprints, other biometric data, or other means~~
449 ~~of confirming the identity of persons authorized to enter a~~
450 ~~secure or restricted area of a seaport.~~

451 ~~2. A methodology for receiving from and transmitting~~
452 ~~information to each seaport regarding a person's authority to~~
453 ~~enter a secure or restricted area of the seaport.~~

454 ~~3. A means for receiving prompt notification from a seaport~~
455 ~~when a person's authorization to enter a secure or restricted~~
456 ~~area of a seaport has been suspended or revoked.~~

457 ~~4. A means to communicate to seaports when a person's~~
458 ~~authorization to enter a secure or restricted area of a seaport~~
459 ~~has been suspended or revoked.~~

460 ~~(b) Each seaport listed in s. 311.09 is responsible for~~
461 ~~granting, modifying, restricting, or denying access to secure~~
462 ~~and restricted areas to seaport employees, other persons working~~
463 ~~at the seaport, visitors who have business with the seaport, or~~
464 ~~other persons regularly appearing at the seaport. Based upon the~~

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465 ~~person's criminal history check, each seaport may determine the~~
466 ~~specific access eligibility to be granted to that person. Each~~
467 ~~seaport is responsible for access eligibility verification at~~
468 ~~its location.~~

469 ~~(c) Upon determining that a person is eligible to enter a~~
470 ~~secure or restricted area of a port pursuant to subsections (6)~~
471 ~~and (7), the seaport shall, within 3 business days, report the~~
472 ~~determination to the department for inclusion in the system.~~

473 ~~(d) All information submitted to the department regarding a~~
474 ~~person's access eligibility screening may be retained by the~~
475 ~~department for subsequent use in promoting seaport security,~~
476 ~~including, but not limited to, the review of the person's~~
477 ~~criminal history status to ensure that the person has not become~~
478 ~~disqualified for such access.~~

479 ~~(e) The following fees may not be charged by more than one~~
480 ~~seaport and shall be paid by the seaport, another employing~~
481 ~~entity, or the person being entered into the system to the~~
482 ~~department or to the seaport if the seaport is acting as an~~
483 ~~agent of the department for the purpose of collecting the fees:~~

484 ~~1. The cost of the state criminal history check under~~
485 ~~subsection (7).~~

486 ~~2. A \$50 fee to cover the initial cost of entering the~~
487 ~~person into the system and an additional \$50 fee every 5 years~~
488 ~~thereafter to coincide with the issuance of the federal~~
489 ~~Transportation Worker Identification Credential described in~~
490 ~~subsection (6). The fee covers all costs for entering or~~
491 ~~maintaining the person in the system including the retention and~~
492 ~~use of the person's fingerprint, other biometric data, or other~~
493 ~~identifying information.~~

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494 ~~3. The seaport entering the person into the system may~~
495 ~~charge an administrative fee to cover, but not exceed, the~~
496 ~~seaport's actual administrative costs for processing the results~~
497 ~~of the state criminal history check and entering the person into~~
498 ~~the system.~~

499 ~~(f) All fees identified in paragraph (e) must be paid~~
500 ~~before the person may be granted access to a secure or~~
501 ~~restricted area. Failure to comply with the criminal history~~
502 ~~check and failure to pay the fees are grounds for immediate~~
503 ~~denial of access.~~

504 ~~(g) Persons, corporations, or other business entities that~~
505 ~~employ persons to work or do business at seaports shall notify~~
506 ~~the seaport of the termination, resignation, work-related~~
507 ~~incapacitation, or death of an employee who has access~~
508 ~~permission.~~

509 ~~1. If the seaport determines that the person has been~~
510 ~~employed by another appropriate entity or is self-employed for~~
511 ~~purposes of performing work at the seaport, the seaport may~~
512 ~~reinstate the person's access eligibility.~~

513 ~~2. A business entity's failure to report a change in an~~
514 ~~employee's work status within 7 days after the change may result~~
515 ~~in revocation of the business entity's access to the seaport.~~

516 ~~(h) In addition to access permissions granted or denied by~~
517 ~~seaports, access eligibility may be restricted or revoked by the~~
518 ~~department if there is a reasonable suspicion that the person is~~
519 ~~involved in terrorism or criminal violations that could affect~~
520 ~~the security of a port or otherwise render the person ineligible~~
521 ~~for seaport access.~~

522 ~~(i) Any suspension or revocation of port access must be~~

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523 ~~reported by the seaport to the department within 24 hours after~~
524 ~~such suspension or revocation.~~

525 ~~(j) The submission of information known to be false or~~
526 ~~misleading to the department for entry into the system is a~~
527 ~~felony of the third degree, punishable as provided in s.~~
528 ~~775.082, s. 775.083, or s. 775.084.~~

529 (5)~~(6)~~ ACCESS TO SECURE AND RESTRICTED AREAS.—

530 (a) Any person seeking authorization for unescorted access
531 to secure and restricted areas of a seaport must possess, ~~unless~~
532 ~~waived under paragraph (7)(e),~~ a valid federal Transportation
533 Worker Identification Credential (TWIC). ~~and execute an~~
534 ~~affidavit under oath which provides TWIC identification~~
535 ~~information and indicates the following:~~

536 ~~1. The TWIC is currently valid and in full force and~~
537 ~~effect.~~

538 ~~2. The TWIC was not received through the waiver process for~~
539 ~~disqualifying criminal history allowed by federal law.~~

540 ~~3. He or she has not, in any jurisdiction, civilian or~~
541 ~~military, been convicted of, entered a plea of guilty or nolo~~
542 ~~contendere to, regardless of adjudication, or been found not~~
543 ~~guilty by reason of insanity, of any disqualifying felony under~~
544 ~~subsection (7) or any crime that includes the use or possession~~
545 ~~of a firearm.~~

546 ~~(b) Upon submission of a completed affidavit as provided in~~
547 ~~paragraph (a), the completion of the state criminal history~~
548 ~~check as provided in subsection (7), and payment of all required~~
549 ~~fees under subsection (5), a seaport may grant the person access~~
550 ~~to secure or restricted areas of the port.~~

551 ~~(c) Any port granting a person access to secure or~~

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552 ~~restricted areas shall report the grant of access to the~~
553 ~~Department of Law Enforcement for inclusion in the access~~
554 ~~eligibility reporting system under subsection (5) within 3~~
555 ~~business days.~~

556 ~~(d) The submission of false information on the affidavit~~
557 ~~required by this section is a felony of the third degree,~~
558 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~
559 ~~Upon conviction for a violation of this provision, the person~~
560 ~~convicted forfeits all privilege of access to secure or~~
561 ~~restricted areas of a seaport and is disqualified from future~~
562 ~~approval for access to such areas.~~

563 ~~(e) Any affidavit form created for use under this~~
564 ~~subsection must contain the following statement in conspicuous~~
565 ~~type: "SUBMISSION OF FALSE INFORMATION ON THIS AFFIDAVIT IS A~~
566 ~~FELONY UNDER FLORIDA LAW AND WILL, UPON CONVICTION, RESULT IN~~
567 ~~DISQUALIFICATION FOR ACCESS TO A SECURE OR RESTRICTED AREA OF A~~
568 ~~SEAPORT."~~

569 ~~(f) Upon each 5-year renewal of a person's TWIC, the person~~
570 ~~must submit another affidavit as required by this subsection.~~

571 ~~(7) CRIMINAL HISTORY SCREENING. A fingerprint-based~~
572 ~~criminal history check must be performed on employee applicants,~~
573 ~~current employees, and other persons authorized to regularly~~
574 ~~enter a secure or restricted area, or the entire seaport if the~~
575 ~~seaport security plan does not designate one or more secure or~~
576 ~~restricted areas.~~

577 ~~(a) A person is disqualified from employment or unescorted~~
578 ~~access if the person:~~

579 ~~1. Was convicted of, or entered a plea of guilty or nolo~~
580 ~~contendere to, regardless of adjudication, any of the offenses~~

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581 ~~listed in paragraph (b) in any jurisdiction, civilian or~~
582 ~~military, including courts-martial conducted by the Armed Forces~~
583 ~~of the United States, during the 7 years before the date of the~~
584 ~~person's application for access; or~~

585 ~~2. Was released from incarceration, or any supervision~~
586 ~~imposed as a result of sentencing, for committing any of the~~
587 ~~disqualifying crimes listed in paragraph (b) in any~~
588 ~~jurisdiction, civilian or military, during the 5 years before~~
589 ~~the date of the person's application for access.~~

590 ~~(b) Disqualifying offenses include:~~

591 ~~1. An act of terrorism as defined in s. 775.30.~~

592 ~~2. A violation involving a weapon of mass destruction or a~~
593 ~~hoax weapon of mass destruction as provided in s. 790.166.~~

594 ~~3. Planting of a hoax bomb as provided in s. 790.165.~~

595 ~~4. A violation of s. 876.02 or s. 876.36.~~

596 ~~5. A violation of s. 860.065.~~

597 ~~6. Trafficking as provided in s. 893.135.~~

598 ~~7. Racketeering activity as provided in s. 895.03.~~

599 ~~8. Dealing in stolen property as provided in s. 812.019.~~

600 ~~9. Money laundering as provided in s. 896.101.~~

601 ~~10. Criminal use of personal identification as provided in~~
602 ~~s. 817.568.~~

603 ~~11. Bribery as provided in s. 838.015.~~

604 ~~12. A violation of s. 316.302, relating to the transport of~~
605 ~~hazardous materials.~~

606 ~~13. A forcible felony as defined in s. 776.08.~~

607 ~~14. A violation of s. 790.07.~~

608 ~~15. Any crime that includes the use or possession of a~~
609 ~~firearm.~~

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610 ~~16. A felony violation for theft as provided in s. 812.014.~~

611 ~~17. Robbery as provided in s. 812.13.~~

612 ~~18. Burglary as provided in s. 810.02.~~

613 ~~19. Any violation involving the sale, manufacture,~~
614 ~~delivery, or possession with intent to sell, manufacture, or~~
615 ~~deliver a controlled substance.~~

616 ~~20. Any offense under the laws of another jurisdiction that~~
617 ~~is similar to an offense listed in this paragraph.~~

618 ~~21. Conspiracy or attempt to commit any of the offenses~~
619 ~~listed in this paragraph.~~

620 ~~(c) Each individual who is subject to a criminal history~~
621 ~~check shall file a complete set of fingerprints taken in a~~
622 ~~manner acceptable to the Department of Law Enforcement for state~~
623 ~~processing. The results of the criminal history check must be~~
624 ~~reported to the requesting seaport and may be shared among~~
625 ~~seaports.~~

626 ~~(d) All fingerprints submitted to the Department of Law~~
627 ~~Enforcement shall be retained by the department and entered into~~
628 ~~the statewide automated fingerprint identification system~~
629 ~~established in s. 943.05(2)(b) and available for use in~~
630 ~~accordance with s. 943.05(2)(g) and (h). An arrest record that~~
631 ~~is identified with the retained fingerprints of a person subject~~
632 ~~to the screening shall be reported to the seaport where the~~
633 ~~person has been granted access to a secure or restricted area.~~
634 ~~If the fingerprints of a person who has been granted access were~~
635 ~~not retained, or are otherwise not suitable for use by the~~
636 ~~department, the person must be refingerprinted in a manner that~~
637 ~~allows the department to perform its functions as provided in~~
638 ~~this section.~~

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639 ~~(e) The Department of Law Enforcement shall establish a~~
640 ~~waiver process for a person who does not have a TWIC, obtained a~~
641 ~~TWIC through a federal waiver process, or is found to be~~
642 ~~unqualified under paragraph (a) and denied employment by a~~
643 ~~seaport or unescorted access to secure or restricted areas. If~~
644 ~~the person does not have a TWIC and a federal criminal history~~
645 ~~record check is required, the Department of Law Enforcement may~~
646 ~~forward the person's fingerprints to the Federal Bureau of~~
647 ~~Investigation for a national criminal history record check. The~~
648 ~~cost of the national check must be paid by the seaport, which~~
649 ~~may collect it as reimbursement from the person.~~

650 ~~1. Consideration for a waiver shall be based on the~~
651 ~~circumstances of any disqualifying act or offense, restitution~~
652 ~~made by the individual, and other factors from which it may be~~
653 ~~determined that the individual does not pose a risk of engaging~~
654 ~~in any act within the public seaports regulated under this~~
655 ~~chapter that would pose a risk to or threaten the security of~~
656 ~~the seaport and the public's health, safety, or welfare.~~

657 ~~2. The waiver process begins when an individual who has~~
658 ~~been denied initial employment within or denied unescorted~~
659 ~~access to secure or restricted areas of a public seaport submits~~
660 ~~an application for a waiver and a notarized letter or affidavit~~
661 ~~from the individual's employer or union representative which~~
662 ~~states the mitigating reasons for initiating the waiver process.~~

663 ~~3. Within 90 days after receipt of the application, the~~
664 ~~administrative staff of the Parole Commission shall conduct a~~
665 ~~factual review of the waiver application. Findings of fact shall~~
666 ~~be transmitted to the department for review. The department~~
667 ~~shall make a copy of those findings available to the applicant~~

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668 ~~before final disposition of the waiver request.~~

669 ~~4. The department shall make a final disposition of the~~
670 ~~waiver request based on the factual findings of the~~
671 ~~investigation by the Parole Commission. The department shall~~
672 ~~notify the waiver applicant of the final disposition of the~~
673 ~~waiver.~~

674 ~~5. The review process under this paragraph is exempt from~~
675 ~~chapter 120.~~

676 ~~6. By October 1 of each year, each seaport shall report to~~
677 ~~the department each instance of denial of employment within, or~~
678 ~~access to, secure or restricted areas, and each instance waiving~~
679 ~~a denial occurring during the last 12 months. The report must~~
680 ~~include the identity of the individual affected, the factors~~
681 ~~supporting the denial or waiver, and any other material factors~~
682 ~~used to make the determination.~~

683 ~~(f) In addition to the waiver procedure established by the~~
684 ~~Department of Law Enforcement under paragraph (c), each seaport~~
685 ~~security plan may establish a procedure to appeal a denial of~~
686 ~~employment or access based upon procedural inaccuracies or~~
687 ~~discrepancies regarding criminal history factors established~~
688 ~~pursuant to this subsection.~~

689 ~~(g) Each seaport may allow immediate waivers on a temporary~~
690 ~~basis to meet special or emergency needs of the seaport or its~~
691 ~~users. Policies, procedures, and criteria for implementation of~~
692 ~~this paragraph must be included in the seaport security plan.~~
693 ~~All waivers granted by the seaports pursuant to this paragraph~~
694 ~~must be reported to the department within 30 days after~~
695 ~~issuance.~~

696 ~~(6) (8) WAIVER FROM SECURITY REQUIREMENTS.~~—The Office of

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697 Drug Control and the Department of Law Enforcement may modify or
698 waive any physical facility requirement or other requirement
699 contained in the minimum security standards upon a determination
700 that the purposes of the standards have been reasonably met or
701 exceeded by the seaport requesting the modification or waiver.
702 An alternate means of compliance must not diminish the safety or
703 security of the seaport and must be verified through an
704 extensive risk analysis conducted by the seaport director.

705 (a) Waiver requests shall be submitted in writing, along
706 with supporting documentation, to the Office of Drug Control and
707 the Department of Law Enforcement. The office and the department
708 have 90 days to jointly grant or reject the waiver, in whole or
709 in part.

710 (b) The seaport may submit any waivers that are not granted
711 or are jointly rejected to the Domestic Security Oversight
712 Council for review within 90 days. The council shall recommend
713 that the Office of Drug Control and the Department of Law
714 Enforcement grant the waiver or reject the waiver, in whole or
715 in part. The office and the department shall give great weight
716 to the council's recommendations.

717 (c) A request seeking a waiver from the seaport law
718 enforcement personnel standards established under s. 311.122(3)
719 may not be granted for percentages below 10 percent.

720 (d) Any modifications or waivers granted under this
721 subsection shall be noted in the annual report submitted by the
722 Department of Law Enforcement pursuant to subsection (8) ~~(10)~~.

723 (7) ~~(9)~~ INSPECTIONS.—It is the intent of the Legislature
724 that the state's seaports adhere to security practices that are
725 consistent with the risks assigned to each seaport through the

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726 ongoing risk assessment process established in paragraph (3) (a).

727 (a) The Department of Law Enforcement, or any entity
728 designated by the department, shall conduct at least one annual
729 unannounced inspection of each seaport to determine whether the
730 seaport is meeting the minimum security standards established
731 pursuant to subsection (1) and to identify seaport security
732 changes or improvements needed or otherwise recommended.

733 (b) The Department of Law Enforcement, or any entity
734 designated by the department, may conduct additional announced
735 or unannounced inspections or operations within or affecting any
736 seaport to test compliance with, or the effectiveness of,
737 security plans and operations at each seaport, to determine
738 compliance with physical facility requirements and standards, or
739 to assist the department in identifying changes or improvements
740 needed to bring a seaport into compliance with minimum security
741 standards.

742 (c) Within 30 days after completing the inspection report,
743 the department shall submit a copy of the report to the Domestic
744 Security Oversight Council.

745 (d) A seaport may request that the Domestic Security
746 Oversight Council review the findings in the department's report
747 as they relate to the requirements of this section. The council
748 may review only those findings that are in dispute by the
749 seaport. In reviewing the disputed findings, the council may
750 concur in the findings of the department or the seaport or may
751 recommend corrective action to the seaport. The department and
752 the seaport shall give great weight to the council's findings
753 and recommendations.

754 (e) All seaports shall allow the Department of Law

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755 Enforcement, or an entity designated by the department,
756 unimpeded access to affected areas and facilities for the
757 purpose of plan or compliance inspections or other operations
758 authorized by this section.

759 (8) ~~(10)~~ REPORTS.—The Department of Law Enforcement, in
760 consultation with the Office of Drug Control, shall annually
761 complete a report indicating the observations and findings of
762 all reviews, inspections, or other operations relating to the
763 seaports conducted during the year and any recommendations
764 resulting from such reviews, inspections, and operations. A copy
765 of the report shall be provided to the Governor, the President
766 of the Senate, the Speaker of the House of Representatives, the
767 governing body of each seaport or seaport authority, and each
768 seaport director. The report must include each director's
769 response indicating what actions, if any, have been taken or are
770 planned to be taken pursuant to the observations, findings, and
771 recommendations reported by the department.

772 (9) ~~(11)~~ FUNDING.—

773 (a) In making decisions regarding security projects or
774 other funding applicable to each seaport listed in s. 311.09,
775 the Legislature may consider the Department of Law Enforcement's
776 annual report under subsection (8) ~~(10)~~ as authoritative,
777 especially regarding each seaport's degree of substantial
778 compliance with the minimum security standards established in
779 subsection (1).

780 (b) The Legislature shall regularly review the ongoing
781 costs of operational security on seaports, the impacts of this
782 section on those costs, mitigating factors that may reduce costs
783 without reducing security, and the methods by which seaports may

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784 implement operational security using a combination of sworn law
785 enforcement officers and private security services.

786 (c) Subject to the provisions of this chapter and
787 appropriations made for seaport security, state funds may not be
788 expended for security costs without certification of need for
789 such expenditures by the Office of Ports Administrator within
790 the Department of Law Enforcement.

791 (d) If funds are appropriated for seaport security, the
792 Office of Drug Control, the Department of Law Enforcement, and
793 the Florida Seaport Transportation and Economic Development
794 Council shall mutually determine the allocation of such funds
795 for security project needs identified in the approved seaport
796 security plans. Any seaport that receives state funds for
797 security projects must enter into a joint participation
798 agreement with the appropriate state entity and use the seaport
799 security plan as the basis for the agreement.

800 1. If funds are made available over more than 1 fiscal
801 year, the agreement must reflect the entire scope of the project
802 approved in the security plan and, as practicable, allow for
803 reimbursement for authorized projects over more than 1 year.

804 2. The agreement may include specific timeframes for
805 completion of a security project and the applicable funding
806 reimbursement dates. The agreement may also require a
807 contractual penalty of up to \$1,000 per day to be imposed for
808 failure to meet project completion dates if state funding is
809 available. Any such penalty shall be deposited into the State
810 Transportation Trust Fund and used for seaport security
811 operations and capital improvements.

812 Section 5. Section 455.02, Florida Statutes, is amended to

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813 read:

814 455.02 Licensure of members of the Armed Forces in good
815 standing with administrative boards and their spouses.—

816 (1) Any member of the Armed Forces of the United States now
817 or hereafter on active duty who, at the time of becoming such a
818 member, was in good standing with any administrative board of
819 the state and ~~was~~ entitled to practice or engage in his or her
820 profession or vocation in the state shall be kept in good
821 standing by such administrative board, without registering,
822 paying dues or fees, or performing any other act on his or her
823 part to be performed, as long as he or she is a member of the
824 Armed Forces of the United States on active duty and for a
825 period of 6 months after discharge from active duty as a member
826 of the Armed Forces of the United States, if ~~provided~~ he or she
827 is not engaged in his or her licensed profession or vocation in
828 the private sector for profit.

829 (2) The boards listed in s. 20.165 shall adopt ~~promulgate~~
830 rules that exempt ~~exempting~~ the spouse ~~spouses~~ of a member
831 ~~members~~ of the Armed Forces of the United States from licensure
832 renewal provisions, but only in cases of his or her absence from
833 the state because of his or her spouse's ~~their spouses'~~ duties
834 with the Armed Forces.

835 (3) The department may issue a temporary professional
836 license to the spouse of an active duty member of the Armed
837 Forces of the United States if the spouse applies to the
838 department in the format prescribed by the department.

839 (a) An application must include proof that:

840 1. The applicant is married to a member of the Armed Forces
841 of the United States who is on active duty.

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842 2. The applicant holds a valid license for the profession
843 issued by another state, the District of Columbia, any
844 possession or territory of the United States, or any foreign
845 jurisdiction.

846 3. The applicant's spouse is assigned to a duty station in
847 this state and the applicant is also assigned to a duty station
848 in this state pursuant to the member's official active duty
849 military orders.

850 4. A complete set of the applicant's fingerprints has been
851 submitted to the Department of Law Enforcement for a statewide
852 criminal history check.

853 a. The Department of Law Enforcement shall forward the
854 fingerprints to the Federal Bureau of Investigation for a
855 national criminal history check. The department shall, and the
856 board may, review the results of the criminal history checks
857 according to the level 2 screening standards in s. 435.04 and
858 determine whether the applicant meets the licensure
859 requirements.

860 b. The costs of fingerprint processing shall be borne by
861 the applicant. If the applicant's fingerprints are submitted
862 through an authorized agency or vendor, the agency or vendor
863 shall collect the required processing fees and remit the fees to
864 the Department of Law Enforcement.

865 (b) An application must be accompanied by an application
866 fee prescribed by the department that is sufficient to cover the
867 cost of issuance of the temporary license.

868 (c) A temporary license expires 6 months after the date of
869 issuance and is not renewable.

870 Section 6. Subsections (4) and (7) of section 250.10,

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871 Florida Statutes, are amended to read:

872 250.10 Appointment and duties of the Adjutant General.—

873 (4) Subject to confirmation by the Senate, the Adjutant
874 General:

875 (a) ~~Shall, subject to confirmation by the Senate,~~ employ a
876 federally recognized officer of the Florida National Guard, who
877 has served in the Florida Army Guard for the preceding 5 years
878 and attained the rank of colonel or higher at the time of
879 appointment, to be the Assistant Adjutant General for Army.

880 (b) May employ an additional federally recognized officer
881 of the Florida National Guard, who has served in the Florida
882 Army Guard for the preceding 5 years and attained the rank of
883 colonel or higher at the time of appointment, to be a second
884 Assistant Adjutant General for Army.

885

886 Each ~~The~~ officer shall perform the duties required by the
887 Adjutant General.

888 (7) The Adjutant General shall develop an education
889 assistance program for members in good standing of the Florida
890 National Guard who enroll in an authorized course of study at a
891 public or nonpublic institution of higher learning in the state
892 which has been accredited by an accrediting body recognized by
893 the United States Department of Education or licensed by the
894 Commission for Independent Education ~~the Commission on Colleges~~
895 ~~of the Southern Association of Colleges and Schools.~~ This
896 program shall be known as the Educational Dollars for Duty
897 program (EDD).

898 (a) The program shall set forth application requirements,
899 including, but not limited to, those requiring ~~requirements~~ that

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900 the applicant:

901 1. Be 17 years of age or older.

902 2. Be presently domiciled in the state.

903 3. Be an active drilling member and in good standing in the
904 Florida National Guard at the beginning of and throughout the
905 entire academic term for which benefits are received.

906 4. Maintain continuous satisfactory participation in the
907 Florida National Guard for any school term for which exemption
908 benefits are received.

909 5. Upon enrollment in the program, complete a memorandum of
910 agreement to comply with the rules of the program and serve in
911 the Florida National Guard for the period specified in the
912 member's enlistment or reenlistment contract.

913 (b) The program shall define those members of the Florida
914 National Guard who are ineligible to participate in the program
915 and those courses of study which are not authorized for the
916 program.

917 1. Ineligible members include, but are not limited to, any
918 member, commissioned officer, warrant officer, or enlisted
919 person who has obtained a master's degree using the program.

920 2. Courses not authorized include noncredit courses,
921 courses that do not meet degree requirements, courses that do
922 not meet requirements for completion of career training, or
923 other courses as determined by program definitions.

924 3. College-preparatory courses are authorized for the
925 program.

926 (c) The Adjutant General shall adopt rules for the overall
927 policy, guidance, administration, implementation, and proper use
928 of the program. Such rules must include, but not be limited to,

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929 guidelines for certification by the Adjutant General of a guard
930 member's eligibility, procedures for notification to an
931 institution of a guard member's termination of eligibility, and
932 procedures for restitution when a guard member fails to comply
933 with the penalties described in this section.

934 Section 7. This act shall take effect July 1, 2010.