

By Senator Kirkpatrick

5-1004-98

1                                   A bill to be entitled  
 2           An act relating to postsecondary student  
 3           financial aid; creating ss. 240.801, 240.802,  
 4           240.810, 240.811, 240.812, 240.813, 240.814,  
 5           240.815, 240.816, 240.817, 240.818, 240.819,  
 6           240.820, 240.821, 240.822, 240.823, 240.824,  
 7           240.840, F.S.; creating the Florida Student  
 8           Financial Aid Corporation; providing for the  
 9           corporation's membership, powers, and duties;  
 10          authorizing the corporation to administer state  
 11          and federal financial aid and scholarship  
 12          programs for students attending public and  
 13          nonpublic postsecondary education institutions;  
 14          providing an effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

17  
 18           Section 1. Sections 240.801, 240.802, 240.810,  
 19           240.811, 240.812, 240.813, 240.814, 240.815, 240.816, 240.817,  
 20           240.818, 240.819, 240.820, 240.821, 240.822, 240.823, 240.824,  
 21           and 240.840, Florida Statutes, are created to read:

22           240.801 Florida Student Financial Aid  
 23           Corporation.--There is created a public body corporate known  
 24           as the Florida Student Financial Aid Corporation, which shall  
 25           have the primary responsibility for administering state and  
 26           federal financial aid and scholarship programs for students  
 27           attending public and nonpublic postsecondary education  
 28           institutions. The corporation is constituted as a public  
 29           instrumentality of state government, and the exercise by the  
 30           corporation of the powers conferred by this act is held to be  
 31           the performance of an essential public function, including the

1 issuance of scholarships, grants, and loans to Florida  
2 students attending eligible postsecondary education  
3 institutions.

4 240.802 Definitions.--As used in ss. 240.801-240.840,  
5 the term:

6 (1) "Board" means the board of directors of the  
7 corporation.

8 (2) "Corporation" means the Florida Student Financial  
9 Aid Corporation.

10 (3) "Postsecondary educational institution" means an  
11 institution, public or private, that provides courses of  
12 instruction beyond those offered in secondary schools and is  
13 approved and authorized by the state to participate in state  
14 or federal financial aid programs.

15 240.810 Nonprofit public corporation.--The Florida  
16 Student Financial Aid Corporation shall operate as a nonprofit  
17 public corporation. Through a contract with the state, the  
18 corporation will be the primary agency responsible for the  
19 administration of state-authorized postsecondary student  
20 financial aid and scholarship programs and the Federal Family  
21 Education Loan Program, including all related and necessary  
22 services. The corporation shall not be considered a state  
23 agency for the purposes of complying with state purchasing,  
24 employment, and procurement of services requirements.

25 240.811 Composition of board of directors.--

26 (1) The corporation is to be governed by a board of  
27 nine directors serving for 4 years each and appointed in  
28 accordance with this section.

29 (a) The Governor shall appoint six members, subject to  
30 the confirmation of the Senate. Four members must have  
31 knowledge of or experience in finance, including management of

1 funds or business operations; one member must be a student  
2 enrolled in a postsecondary institution; and one member must  
3 be employed by a public or nonpublic postsecondary education  
4 institution.

5 (b) The Commissioner of Education shall appoint two  
6 members, subject to the confirmation of the Senate. One of the  
7 members must have knowledge of or experience in finance,  
8 including management of funds or business operations; one  
9 member must be employed by a public or nonpublic postsecondary  
10 education institution.

11 (c) The Comptroller or designee shall serve as an  
12 ex-officio voting member of the board.

13 (2) Appointments to the board must reflect race and  
14 gender distribution in the population. Each member of the  
15 board must be a resident of the state.

16 (3) A person may not serve on the board of directors  
17 of the corporation who has a direct interest in any company,  
18 institution, or organization that may financially benefit from  
19 the administration of public funds.

20 (4) Members of the board are appointed to serve for a  
21 term of 4 years, except that, in making the initial  
22 appointment, the Governor shall appoint three members for 3  
23 years each and three members for 2 years each and the  
24 Commissioner shall appoint one member for 3 years and one  
25 member for 2 years. Members may be reappointed to more than  
26 one term.

27 240.812 Removal of board member.--

28 (1) A member may be removed from the board if the  
29 member:

30 (a) Does not have, at the time of appointment, the  
31 qualifications required by this act.

1           (b) Does not maintain during service on the board the  
2 qualifications required by this act.

3           (c) Violates a prohibition established by this act.

4           (d) Cannot discharge the member's duties for a  
5 substantial part of the term for which the member is  
6 appointed.

7           (e) Is absent from more than half of the regularly  
8 scheduled board meetings that the member is eligible to attend  
9 during a calendar year unless the absence is excused by a  
10 majority vote of the board.

11           (2) The validity of an action of the board is not  
12 affected by the fact that it was taken when a ground for  
13 removal of a board member existed.

14           (3) Removal of a board member must be by the  
15 appointing authority with a recommendation from the majority  
16 of the board.

17           240.813 Vacancies.--

18           (1) A member of the board vacates the office if the  
19 member ceases to be a member of the field from which he or she  
20 was appointed.

21           (2) A vacancy on the board shall be filled by the  
22 appointing authority, for the remainder of the unexpired term.

23           240.814 Expenses.--Members of the board shall serve  
24 without compensation but are entitled to reimbursement for  
25 actual and necessary expenses in attending board meetings or  
26 performing other official duties authorized by the  
27 chairperson.

28           240.815 Powers and duties of the board.--The board has  
29 power to:

30           (1) Secure funding for programs and activities of the  
31 corporation, from federal, state, local, and private sources,

1 and from fees charged for services, and may solicit, receive,  
2 hold, invest, and administer any grant, payment, or gift of  
3 funds or property and make expenditures consistent with the  
4 power granted to it.

5 (2) Make and enter into contracts and other  
6 instruments necessary or convenient for the exercise of its  
7 powers and functions, except that any contract made with the  
8 auxiliary organization must be approved by the Department of  
9 Education.

10 (3) Sue and be sued, and appear and defend in all  
11 actions and proceedings, in its corporate name to the same  
12 extent as a natural person.

13 (4) Adopt, use, and alter a common corporate seal for  
14 the corporation, and its board. Notwithstanding any provisions  
15 of chapter 617 to the contrary, this seal is not required to  
16 contain the words "corporation not for profit."

17 (5) Elect or appoint such officers and agents as its  
18 affairs require and allow them reasonable compensation that is  
19 derived from the income of the corporation.

20 (6) Adopt, amend, and repeal bylaws, not inconsistent  
21 with the powers granted to it or the articles of  
22 incorporation, for the administration of the affairs of the  
23 corporation and the exercise of its corporate powers.

24 (7) Acquire, enjoy, use, and dispose of patents,  
25 copyrights, and trademarks and any licenses, royalties, and  
26 other rights or interests in them.

27 (8) Do all acts and things necessary or convenient to  
28 carry out the powers granted to it.

29 (9) Use the state seal, notwithstanding the provisions  
30 of s. 15.03, when appropriate, to establish that the  
31 corporation is the principal administrator of state and

1 federal student financial assistance to postsecondary  
2 education students of the state. Use of the state seal is not  
3 to replace the use of a corporate seal as provided in this  
4 section.

5 (10) Carry forward any unexpended state appropriations  
6 into succeeding fiscal years.

7 (11) Procure insurance or require bond against any  
8 loss in connection with the property of the corporation or its  
9 boards, in amounts and from insurers as is necessary or  
10 desirable.

11 (12) In addition to any indemnification available  
12 under chapter 617, the corporation may indemnify, and purchase  
13 and maintain insurance on behalf of, directors, officers, and  
14 employees of the corporation against any personal liability or  
15 accountability by reason of actions taken while acting within  
16 the scope of their authority.

17 240.816 Fiscal provisions.--

18 (1) The corporation shall establish a reserve fund  
19 into which all money received by the corporation shall be  
20 deposited. The corporation shall establish separate accounts  
21 in that fund as follows:

22 (a) A guarantee account to administer the federal  
23 guarantee loan program.

24 (b) The "Bright Futures" account to administer the  
25 merit scholarship programs funded through the Educational  
26 Enhancement Trust Fund.

27 (c) A state aid account to administer needs-based  
28 financial assistance programs.

29 (d) A miscellaneous scholarship account to administer  
30 all other scholarships.

31

1           (e) An operational and administrative services account  
2 to deposit funds for administering the state's financial  
3 assistance programs.

4           (2) Funds in the guarantee account may only be used  
5 for meeting the claims of eligible lenders on defaulted loans.  
6 The corporation may pledge and use money in the guarantee  
7 account to repay indebtedness incurred for meeting the claims  
8 of eligible lenders on defaulted loans. Federal money advanced  
9 to the corporation for the purpose of helping to establish or  
10 strengthen the reserve fund must be deposited in the guarantee  
11 account and tracked as a separate item.

12           (3) All income, property, and other assets of the  
13 corporation are exempt from taxation by the state and  
14 political subdivisions of the state.

15           (4) All money of the corporation may be invested in  
16 direct obligations of the United States of America;  
17 obligations that in the opinion of the Attorney General of the  
18 United States are general obligations of the United States and  
19 backed by its full faith and credit; obligations guaranteed by  
20 the United States of America; evidences of indebtedness of the  
21 Federal Land Banks, Federal Intermediate Credit Banks, Banks  
22 for Cooperatives, Federal Home Loan Banks, Federal National  
23 Mortgage Association, Federal Financing Bank Participation  
24 Certificates in the Federal Assets Financing Trust, New  
25 Housing Authority Bonds and Project notes fully secured by  
26 contracts with the United States or any other agency or  
27 instrumentality of the United State of America; and deposits  
28 or certificates of deposit of any bank or trust company which  
29 are fully secured by obligations in which the corporation may  
30 invest under the provisions of this section.

31

1           (5) At least once each year the corporation must have  
2 a fiscal audit performed by a certified public accountant. A  
3 copy of the annual audit must be submitted to the auditor  
4 general for review.

5           (6) The corporation shall comply with the requirements  
6 of the Higher Education Act of 1965, 20 U.S.C. Sec. 1001 et  
7 seq., as amended, and other appropriate laws, regulations, or  
8 practices as required or permitted by law.

9           240.817 Annual report.--

10           (1) The corporation shall annually produce a written  
11 report on the financial and program operations of the  
12 corporation. The report must include the audited financial  
13 statement for the year, the number and dollar value of loans  
14 guaranteed during the year, state awards disbursed, and the  
15 total dollar value of outstanding guaranteed loans.

16           (2) The corporation shall submit the annual report to  
17 the Governor, the Commissioner of Education, the President of  
18 the Senate, and the Speaker of the House of Representatives no  
19 later than January 1 of each year.

20           240.818 State Grants/Scholarship/Loans and Federal  
21 Family Educational Loan Program.--

22           (1) The corporation shall operate under a contract  
23 with the Florida Department of Education for the operation and  
24 administration of the state-funded programs. The  
25 administrative and operational cost of the state programs, as  
26 well as the funds to be awarded to students, must be paid  
27 directly to the corporation no later than July 1 of each year.  
28 The corporation shall assume all existing assets, liabilities,  
29 and contracts necessary and appropriate to the operation of  
30 the state student assistance programs currently administered  
31 by the Office of Student Financial Assistance.



1           (2) The corporation shall operate under a contract  
2 with the Florida Department of Education for the operational  
3 and administrative services necessary for the state's  
4 participation in the Federal Family Education Loan Program.  
5 The corporation shall administer the Federal Family Education  
6 Loan Program in accordance with the Higher Education Act of  
7 1965, 20 U.S.C. Sec. 1001 et seq., as amended, and in  
8 accordance with applicable federal regulations. The  
9 corporation shall assume all existing assets, liabilities, and  
10 contracts for the operation of the Federal Family Education  
11 Loan Program currently administered by the Office of Student  
12 Financial Assistance. Except as otherwise provided by law, all  
13 expenses of the Federal Family Education Loan Program must be  
14 paid from income generated by the program.

15           240.819 Guaranteed student loans.--

16           (1) The corporation shall guarantee loans made to  
17 eligible borrowers by eligible lenders as provided by the  
18 Federal Family Education Loan Program under the Higher  
19 Education Act of 1965, 20 U.S.C. Sec. 1001 et seq., as  
20 amended, and in accordance with applicable federal  
21 regulations.

22           (2) The corporation may designate a lender of last  
23 resort.

24           240.820 Reinsurance.--The corporation may enter into  
25 an agreement with the United States Department of Education  
26 for reinsurance against loss under the loan program due to  
27 death, disability, or default of the borrower.

28           240.821 Postsecondary educational institutions and  
29 lender advisory committees.--

30           (1) The board may establish advisory committees as the  
31 board considers necessary.

1           (2) The board shall specify each advisory committee's  
2 purpose and duties and require each committee to report to the  
3 board in a manner specified by the board relating to each  
4 committee's activities and work results.

5           240.822 Suits on default.--

6           (1) If a student borrower defaults on a loan and the  
7 corporation is required to honor the guarantee, the  
8 corporation may bring suit against the defaulting party in  
9 accordance with the requirements of the Higher Education Act  
10 of 1965, 20 U.S.C. Sec. 1001 et seq., as amended.

11           (2) A suit against a defaulting party under this  
12 section may be brought in the county in which the defaulting  
13 person resides, in which the lender is located, or in Leon  
14 County.

15           (3) It is not a defense to a suit under this section  
16 that the defaulting party was a minor at the time the  
17 promissory note was executed or that the statute of  
18 limitations has expired.

19           240.823 Cooperation of state agencies and  
20 subdivisions.--To the extent allowed by law, each agency and  
21 political subdivision of the state must cooperate with the  
22 corporation in attempts to collect on defaulted loans.

23           240.824 Loan default ground for nonrenewal of  
24 professional or occupational license.--

25           (1) For purposes of administering this program, the  
26 term:

27           (a) "License" means a certificate or similar form of  
28 permission issued or renewed by a licensing agency and  
29 required by law before a person may engage in a profession or  
30 occupation.

31

1           (b) "Licensee" means a person to whom a licensing  
2 agency issues a license.

3           (c) "Licensing agency" means a board, commission,  
4 department, or other agency in the executive or judicial  
5 branch of state government which issues or renews a license.

6           (2) The corporation shall identify the licensing  
7 agencies subject to this section and provide written notice to  
8 those agencies of the requirements prescribed by this section.  
9 Only those licensing agencies that the corporation identifies  
10 and that receive the notice are required to carry out this  
11 section.

12           (3) The corporation shall periodically identify the  
13 persons who are in default on loans guaranteed by the  
14 corporation and provide a list of the names of those persons  
15 to the licensing agencies.

16           (4) A person who is in default on a loan may enter  
17 into an agreement with the corporation for repayment of a  
18 defaulted loan as required under this section. The corporation  
19 shall provide the person with a certificate certifying that  
20 the person has entered a repayment agreement on the defaulted  
21 loan.

22           (5) A licensing agency may not renew the license of a  
23 licensee whose name is on the list provided by the corporation  
24 under subsection (3) unless:

25           (a) The renewal is the first renewal following the  
26 agency's receipt of the list including the licensee's name  
27 among those in default; or

28           (b) The licensee presents to the agency a certificate  
29 issued by the corporation certifying that:

30           1. The licensee has entered a repayment agreement on  
31 the defaulted loan; or

1           2. The licensee is not in default on a loan guaranteed  
2 by the corporation.

3           (6) A licensing agency may issue an initial license to  
4 a person whose name is on the list provided by the corporation  
5 under subsection (3) and who meets all other qualifications  
6 for licensure, but shall not renew the license unless the  
7 person presents to the agency a certificate issued by the  
8 corporation certifying that the licensee has entered a  
9 repayment agreement on the defaulted loan or that the licensee  
10 is not in default on a loan guaranteed by the corporation.

11           (7) A licensing agency may not renew the license of a  
12 licensee who defaults on a repayment agreement unless the  
13 person presents to the agency a certificate issued by the  
14 corporation certifying that the licensee has entered another  
15 repayment agreement on the defaulted loan or that the licensee  
16 is not in default on a loan guaranteed by the corporation or  
17 on a repayment agreement.

18           (8) A licensing agency shall provide written notice of  
19 the nonrenewal policies established under subsections (5),  
20 (6), and (7) to each applicant for a license or for renewal of  
21 a license. The corporation shall provide written notice of  
22 those same policies on each loan application form provided by  
23 the corporation and on each promissory note signed by a  
24 borrower. Failure to provide the notice required by this  
25 subsection does not affect the default status of a borrower or  
26 the prohibitions on renewal of a license held by a person in  
27 default.

28           (9) A licensing agency shall provide an opportunity  
29 for a hearing to a licensee before the agency takes action  
30 concerning the nonrenewal of a license under this section.  
31

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31

(10) Each licensing agency shall adopt any rules necessary to carry out the licensing agency's duties under this section.

(11) The board shall establish procedures to carry out the corporation's duties under this section.

(12) This section does not apply to the State Board of Administration.

240.840 Nondiscrimination.--Neither the corporation nor an eligible lender may discriminate against an eligible student in making a loan or loan guarantee on the basis of race, age, religion, sex, or national origin.

Section 2. This act shall take effect upon becoming a law.

\*\*\*\*\*

SENATE SUMMARY

Creates the Florida Student Financial Aid Corporation to administer state and federal financial aid and scholarship programs for students attending public and nonpublic postsecondary education institutions.