

Bill No. CS for SB 2100

Amendment No.     

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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11	Senator Clary moved the following amendment:		
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13	<b>Senate Amendment (with title amendment)</b>		
14	On page 46, between lines 14 and 15,		
15			
16	insert:		
17	Section 39. Section 240.551, Florida Statutes, is		
18	amended to read:		
19	240.551 Florida Prepaid <u>College</u> <del>Postsecondary</del>		
20	<del>Education Expense</del> Program.--		
21	(1) <u>LEGISLATIVE INTENT</u> .--The Legislature recognizes		
22	that educational opportunity at the postsecondary level is a		
23	critical state interest. It further recognizes that		
24	educational opportunity is best ensured through the provision		
25	of postsecondary institutions that are geographically and		
26	financially accessible. Accordingly, it is the intent of the		
27	Legislature that a program be established through which many		
28	of the costs associated with postsecondary attendance may be		
29	paid in advance and fixed at a guaranteed level for the		
30	duration of undergraduate enrollment. It is similarly the		
31	intent of the Legislature to provide a program that fosters		

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1 timely financial planning for postsecondary attendance and to  
 2 encourage employer participation in such planning through  
 3 program contributions on behalf of employees and the  
 4 dependents of employees.

5 (2) DEFINITIONS. ~~As used in this section:~~

6 (a) "Advance payment contract" means a contract  
 7 entered into by the board and a purchaser pursuant to this  
 8 section.

9 (b) "Board" means the Florida Prepaid College  
 10 ~~Postsecondary Education Expense~~ Board.

11 (c) "Fund" means the Florida Prepaid College  
 12 ~~Postsecondary Education Expense~~ Trust Fund.

13 ~~(d)(g)~~ "Program" means the Florida Prepaid College  
 14 ~~Postsecondary Education Expense~~ Program.

15 ~~(e)(d)~~ "Purchaser" means a person who makes or is  
 16 obligated to make advance registration or dormitory residence  
 17 payments in accordance with an advance payment contract.

18 ~~(f)(e)~~ "Qualified beneficiary" means:

19 1. A resident of this state at the time a purchaser  
 20 enters into an advance payment contract on behalf of the  
 21 resident;

22 2. A nonresident who is the child of a noncustodial  
 23 parent who is a resident of this state at the time that such  
 24 parent enters into an advance payment contract on behalf of  
 25 the child; or

26 3. For purposes of advance payment contracts entered  
 27 into pursuant to subsection (22)~~paragraph (5)(j)~~, a graduate  
 28 of an accredited high school in this state who is a resident  
 29 of this state at the time he or she is designated to receive  
 30 the benefits of the advance payment contract.

31 ~~(g)(h)~~ "Registration fee" means matriculation fee,

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1 financial aid fee, building fee, and Capital Improvement Trust  
2 Fund fee.

3 ~~(h)(f)~~ "State postsecondary institution" means any  
4 community college identified in s. 240.3031 or university  
5 identified in s. 240.2011.

6 (3) FLORIDA PREPAID COLLEGE PROGRAM; CREATION.--There  
7 is created a Florida Prepaid College Postsecondary Education  
8 ~~Expense~~ Program to provide a medium through which the cost of  
9 registration and dormitory residence may be paid in advance of  
10 enrollment in a state postsecondary institution at a rate  
11 lower than the projected corresponding cost at the time of  
12 actual enrollment. Such payments shall be combined and  
13 invested in a manner that yields, at a minimum, sufficient  
14 interest to generate the difference between the prepaid amount  
15 and the cost of registration and dormitory residence at the  
16 time of actual enrollment. Students who enroll in a state  
17 postsecondary institution pursuant to this section shall be  
18 charged no fees in excess of the terms delineated in the  
19 advance payment contract.

20 (4) FLORIDA PREPAID COLLEGE TRUST FUND.--There is  
21 created within the State Board of Administration the Florida  
22 Prepaid College Postsecondary Education Expense Trust Fund.  
23 The fund shall consist of state appropriations, moneys  
24 acquired from other governmental or private sources, and  
25 moneys remitted in accordance with advance payment contracts.  
26 All funds deposited into the trust fund may be invested  
27 pursuant to s. 215.47; ~~however, such investment shall not be~~  
28 ~~mandatory~~. Dividends, interest, and gains accruing to the  
29 trust fund shall increase the total funds available for the  
30 program. Notwithstanding the provisions of chapter 717, funds  
31 associated with terminated contracts ~~terminated~~ pursuant to

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1 subsection (12)~~paragraph (6)(d)~~and canceled contracts for  
 2 which no refunds have been claimed shall increase the total  
 3 funds available for the program. However, the board shall  
 4 establish procedures for notifying purchasers who subsequently  
 5 cancel their contracts of any unclaimed refund and shall  
 6 establish a time period after which no refund may be claimed  
 7 by a purchaser who canceled a contract. Any balance contained  
 8 within the fund at the end of a fiscal year shall remain  
 9 therein and shall be available for carrying out the purposes  
 10 of the program. In the event that dividends, interest, and  
 11 gains exceed ~~exceeds~~ the amount necessary for program  
 12 administration and disbursements, the board may designate an  
 13 additional percentage of the fund to serve as a contingency  
 14 fund. Moneys contained within the fund shall be exempt from  
 15 the investment requirements of s. 18.10. Any funds of a  
 16 direct-support organization created pursuant to subsection  
 17 ~~(22)paragraph (5)(j)~~shall be exempt from the provisions of  
 18 this subsection ~~paragraph~~.

19 (5) PROGRAM ADMINISTRATION.--

20 (a) The Florida Prepaid College Postsecondary  
 21 ~~Education Expense~~ Program shall be administered by the Florida  
 22 ~~Prepaid College Postsecondary Education Expense~~ Board as an  
 23 agency of the state. The Florida Prepaid College  
 24 ~~Postsecondary Education Expense~~ Board is hereby created as a  
 25 body corporate with all the powers of a body corporate for the  
 26 purposes delineated in this section. For the purposes of s.  
 27 6, Art. IV of the State Constitution, the board shall be  
 28 assigned to and administratively housed within the State Board  
 29 of Administration, but it shall independently exercise the  
 30 powers and duties specified in this section.

31 (b) The board shall consist of seven members to be

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1 composed of the Insurance Commissioner and Treasurer, the  
2 Comptroller, the Chancellor of the Board of Regents, the  
3 Executive Director of the State Board of Community Colleges,  
4 and three members appointed by the Governor and subject to  
5 confirmation by the Senate. Each member appointed by the  
6 Governor shall possess knowledge, skill, and experience in the  
7 areas of accounting, actuary, risk management, or investment  
8 management. Each member of the board not appointed by the  
9 Governor may name a designee to serve the board on behalf of  
10 the member; however, any designee so named shall meet the  
11 qualifications required of gubernatorial appointees to the  
12 board. Members appointed by the Governor shall serve terms of  
13 3 years ~~except that, in making the initial appointments, the~~  
14 ~~Governor shall appoint one member to serve for 1 year, one~~  
15 ~~member to serve for 2 years, and one member to serve for 3~~  
16 ~~years.~~ Any person appointed to fill a vacancy on the board  
17 shall be appointed in a like manner and shall serve for only  
18 the unexpired term. Any member shall be eligible for  
19 reappointment and shall serve until a successor qualifies.  
20 Members of the board shall serve without compensation but  
21 shall be reimbursed for per diem and travel in accordance with  
22 s. 112.061. Each member of the board shall file a full and  
23 public disclosure of his or her financial interests pursuant  
24 to s. 8, Art. II of the State Constitution and corresponding  
25 statute.

26 ~~(c)(a) The Governor shall appoint a member of the~~  
27 ~~board to serve as the initial chair of the board. Thereafter,~~  
28 ~~the board shall elect a chair annually. The board shall~~  
29 annually elect a board member to serve as chair and a board  
30 member to serve as vice chair and shall designate a  
31 secretary-treasurer who need not be a member of the board.

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1 The secretary-treasurer shall keep a record of the proceedings  
2 of the board and shall be the custodian of all printed  
3 material filed with or by the board and of its official seal.  
4 Notwithstanding the existence of vacancies on the board, a  
5 majority of the members shall constitute a quorum. The board  
6 shall take no official action in the absence of a quorum. The  
7 board shall meet, at a minimum, on a quarterly basis at the  
8 call of the chair.

9 (6) FLORIDA PREPAID COLLEGE BOARD; DUTIES.--The board  
10 shall:

11 (a)(b) The board shall Appoint an executive director  
12 to serve as the chief administrative and operational officer  
13 of the board and to perform other duties assigned to him or  
14 her by the board.

15 (b) Administer the fund in a manner that is  
16 sufficiently actuarially sound to defray the obligations of  
17 the program. The board shall annually evaluate or cause to be  
18 evaluated the actuarial soundness of the fund. If the board  
19 perceives a need for additional assets in order to preserve  
20 actuarial soundness, the board may adjust the terms of  
21 subsequent advance payment contracts to ensure such soundness.

22 (c) Establish a comprehensive investment plan for the  
23 purposes of this section with the approval of the State Board  
24 of Administration. The comprehensive investment plan shall  
25 specify the investment policies to be utilized by the board in  
26 its administration of the fund. The board may place assets of  
27 the fund in savings accounts or use the same to purchase fixed  
28 or variable life insurance or annuity contracts, securities,  
29 evidence of indebtedness, or other investment products  
30 pursuant to the comprehensive investment plan and in such  
31 proportions as may be designated or approved under that plan.

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1 Such insurance, annuity, savings, or investment products shall  
 2 be underwritten and offered in compliance with the applicable  
 3 federal and state laws, regulations, and rules by persons who  
 4 are duly authorized by applicable federal and state  
 5 authorities. Within the comprehensive investment plan, the  
 6 board may authorize investment vehicles, or products incident  
 7 thereto, as may be available or offered by qualified companies  
 8 or persons. A contract purchaser may not direct the investment  
 9 of his or her contribution to the trust fund and a contract  
 10 beneficiary may not direct the contribution made on his or her  
 11 behalf to the trust fund. Board members and employees of the  
 12 board are not prohibited from purchasing advance payment  
 13 contracts by virtue of their fiduciary responsibilities as  
 14 members of the board or official duties as employees of the  
 15 board.

16 (d) Solicit proposals and contract, pursuant to s.  
 17 287.057, for the marketing of the Florida Prepaid College  
 18 Program. The entity designated pursuant to this paragraph  
 19 shall serve as a centralized marketing agent for the program  
 20 and shall be solely responsible for the marketing of the  
 21 program. Any materials produced for the purpose of marketing  
 22 the program shall be submitted to the board for review. No  
 23 such materials shall be made available to the public before  
 24 the materials are approved by the board. Any educational  
 25 institution may distribute marketing materials produced for  
 26 the program; however, all such materials shall have been  
 27 approved by the board prior to distribution. Neither the state  
 28 nor the board shall be liable for misrepresentation of the  
 29 program by a marketing agent.

30 (e) Solicit proposals and contract, pursuant to s.  
 31 287.057, for a trustee services firm to select and supervise

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1 investment programs on behalf of the board. The goals of the  
 2 board in selecting a trustee services firm shall be to obtain  
 3 the highest standards of professional trustee services, to  
 4 allow all qualified firms interested in providing such  
 5 services equal consideration, and to provide such services to  
 6 the state at no cost and to the purchasers at the lowest cost  
 7 possible. The trustee services firm shall agree to meet the  
 8 obligations of the board to qualified beneficiaries if moneys  
 9 in the fund fail to offset the obligations of the board as a  
 10 result of imprudent selection or supervision of investment  
 11 programs by such firm. Evaluations of proposals submitted  
 12 pursuant to this paragraph shall include, but not be limited  
 13 to, the following criteria:

14 1. Adequacy of trustee services for supervision and  
 15 management of the program, including current operations and  
 16 staff organization and commitment of management to the  
 17 proposal.

18 2. Capability to execute program responsibilities  
 19 within time and regulatory constraints.

20 3. Past experience in trustee services and current  
 21 ability to maintain regular and continuous interactions with  
 22 the board, records administrator, and product provider.

23 4. The minimum purchaser participation assumed within  
 24 the proposal and any additional requirements of purchasers.

25 5. Adequacy of technical assistance and services  
 26 proposed for staff.

27 6. Adequacy of a management system for evaluating and  
 28 improving overall trustee services to the program.

29 7. Adequacy of facilities, equipment, and electronic  
 30 data processing services.

31 8. Detailed projections of administrative costs,



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1 including the amount and type of insurance coverage, and  
2 detailed projections of total costs.  
3 (f) Solicit proposals and contract, pursuant to s.  
4 287.057, for product providers to develop investment  
5 portfolios on behalf of the board to achieve the purposes of  
6 this section. Product providers shall be limited to authorized  
7 insurers as defined in s. 624.09, banks as defined in s.  
8 658.12, associations as defined in s. 665.012, authorized  
9 Securities and Exchange Commission investment advisers, and  
10 investment companies as defined in the Investment Company Act  
11 of 1940. All product providers shall have their principal  
12 place of business and corporate charter located and registered  
13 in the United States. In addition, each product provider shall  
14 agree to meet the obligations of the board to qualified  
15 beneficiaries if moneys in the fund fail to offset the  
16 obligations of the board as a result of imprudent investing by  
17 such provider. Each authorized insurer shall evidence superior  
18 performance overall on an acceptable level of surety in  
19 meeting its obligations to its policyholders and other  
20 contractual obligations. Only qualified public depositories  
21 approved by the Insurance Commissioner and Treasurer shall be  
22 eligible for board consideration. Each investment company  
23 shall provide investment plans as specified within the request  
24 for proposals. The goals of the board in selecting a product  
25 provider company shall be to provide all purchasers with the  
26 most secure, well-diversified, and beneficially administered  
27 postsecondary education expense plan possible, to allow all  
28 qualified firms interested in providing such services equal  
29 consideration, and to provide such services to the state at no  
30 cost and to the purchasers at the lowest cost possible.  
31 Evaluations of proposals submitted pursuant to this paragraph

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1 shall include, but not be limited to, the following criteria:

2 1. Fees and other costs charged to purchasers that  
3 affect account values or operational costs related to the  
4 program.

5 2. Past and current investment performance, including  
6 investment and interest rate history, guaranteed minimum rates  
7 of interest, consistency of investment performance, and any  
8 terms and conditions under which moneys are held.

9 3. Past experience and ability to provide timely and  
10 accurate service in the areas of records administration,  
11 benefit payments, investment management, and complaint  
12 resolution.

13 4. Financial history and current financial strength  
14 and capital adequacy to provide products, including operating  
15 procedures and other methods of protecting program assets.

16 (7)(c) FLORIDA PREPAID COLLEGE BOARD; POWERS.--The  
17 board shall have the powers necessary or proper to carry out  
18 the provisions of this section, including, but not limited to,  
19 the power to:

20 (a)1. Adopt an official seal and rules.

21 (b)2. Sue and be sued.

22 (c)3. Make and execute contracts and other necessary  
23 instruments.

24 (d)4. Establish agreements or other transactions with  
25 federal, state, and local agencies, including state  
26 universities and community colleges.

27 (e)5. Invest funds not required for immediate  
28 disbursement.

29 (f)6. Appear in its own behalf before boards,  
30 commissions, or other governmental agencies.

31 (g)7. Hold, buy, and sell any instruments,

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1 obligations, securities, and property determined appropriate  
2 by the board.

3 ~~(h)8.~~ Require a reasonable length of state residence  
4 for qualified beneficiaries.

5 ~~(i)9.~~ Restrict the number of participants in the  
6 community college plan, university plan, and dormitory  
7 residence plan, respectively. However, any person denied  
8 participation solely on the basis of such restriction shall be  
9 granted priority for participation during the succeeding year.

10 ~~(j)10.~~ Segregate contributions and payments to the  
11 fund into various accounts and funds.

12 ~~(k)11.~~ Contract for necessary goods and services,  
13 employ necessary personnel, and engage the services of private  
14 consultants, actuaries, managers, legal counsel, and auditors  
15 for administrative or technical assistance.

16 ~~(l)12.~~ Solicit and accept gifts, grants, loans, and  
17 other aids from any source or participate in any other way in  
18 any government program to carry out the purposes of this  
19 section.

20 ~~(m)13.~~ Require and collect administrative fees and  
21 charges in connection with any transaction and impose  
22 reasonable penalties, including default, for delinquent  
23 payments or for entering into an advance payment contract on a  
24 fraudulent basis.

25 ~~(n)14.~~ Procure insurance against any loss in  
26 connection with the property, assets, and activities of the  
27 fund or the board.

28 ~~(o)15.~~ Impose reasonable time limits on use of the  
29 tuition benefits provided by the program. However, any such  
30 limitation shall be specified within the advance payment  
31 contract.

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1           (p)~~16~~. Delineate the terms and conditions under which  
2 payments may be withdrawn from the fund and impose reasonable  
3 fees and charges for such withdrawal. Such terms and  
4 conditions shall be specified within the advance payment  
5 contract.

6           (q)~~17~~. Provide for the receipt of contributions in  
7 lump sums or installment payments.

8           ~~18. Establish other policies, procedures, and criteria  
9 to implement and administer the provisions of this section.~~

10           (r)~~19~~. Require that purchasers of advance payment  
11 contracts verify, under oath, any requests for contract  
12 conversions, substitutions, transfers, cancellations, refund  
13 requests, or contract changes of any nature. Verification  
14 shall be accomplished as authorized and provided for in s.  
15 92.525(1)(a).

16           ~~(d) The board shall administer the fund in a manner  
17 that is sufficiently actuarially sound to defray the  
18 obligations of the program. The board shall annually evaluate  
19 or cause to be evaluated the actuarial soundness of the fund.  
20 If the board perceives a need for additional assets in order  
21 to preserve actuarial soundness, the board may adjust the  
22 terms of subsequent advance payment contracts to ensure such  
23 soundness.~~

24           ~~(e) The board, acting with the approval of the State  
25 Board of Administration, shall establish a comprehensive  
26 investment plan for the purposes of this section. The  
27 comprehensive investment plan shall specify the investment  
28 policies to be utilized by the board in its administration of  
29 the fund. The board may place assets of the fund in savings  
30 accounts or use the same to purchase fixed or variable life  
31 insurance or annuity contracts, securities, evidence of~~

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1 ~~indebtedness, or other investment products pursuant to the~~  
2 ~~comprehensive investment plan and in such proportions as may~~  
3 ~~be designated or approved under that plan. Such insurance,~~  
4 ~~annuity, savings, or investment products shall be underwritten~~  
5 ~~and offered in compliance with the applicable federal and~~  
6 ~~state laws, regulations, and rules by persons who are duly~~  
7 ~~authorized by applicable federal and state authorities.~~  
8 ~~Within the comprehensive investment plan, the board may~~  
9 ~~authorize investment vehicles, or products incident thereto,~~  
10 ~~as may be available or offered by qualified companies or~~  
11 ~~persons. A contract purchaser may not direct the investment of~~  
12 ~~his or her contribution to the trust fund, and a contract~~  
13 ~~beneficiary may not direct the contribution made on his or her~~  
14 ~~behalf to the trust fund. Board members and employees of the~~  
15 ~~board are not prohibited from purchasing advance payment~~  
16 ~~contracts by virtue of their fiduciary responsibilities as~~  
17 ~~members of the board or official duties as employees of the~~  
18 ~~board.~~

19 (s)(f) ~~The board may~~ Delegate responsibility for  
20 administration of the comprehensive investment plan required  
21 in paragraph (6)(c)(e) to a person the board determines to be  
22 qualified. Such person shall be compensated by the board.  
23 Directly or through such person, the board may contract with a  
24 private corporation or institution to provide such services as  
25 may be a part of the comprehensive investment plan or as may  
26 be deemed necessary or proper by the board or such person,  
27 including, but not limited to, providing consolidated billing,  
28 individual and collective recordkeeping and accountings, and  
29 asset purchase, control, and safekeeping.

30 (t) Endorse insurance coverage written exclusively for  
31 the purpose of protecting advance payment contracts, and the

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1 purchasers and beneficiaries thereof, which may be issued in  
2 the form of a group life policy and which is exempt from the  
3 provisions of part V of chapter 627.

4 (u) Solicit proposals and contract, pursuant to s.  
5 287.057, for the services of a records administrator. The  
6 goals of the board in selecting a records administrator shall  
7 be to provide all purchasers with the most secure,  
8 well-diversified, and beneficially administered postsecondary  
9 education expense plan possible, to allow all qualified firms  
10 interested in providing such services equal consideration, and  
11 to provide such services to the state at no cost and to the  
12 purchasers at the lowest cost possible. Evaluations of  
13 proposals submitted pursuant to this paragraph shall include,  
14 but not be limited to, the following criteria:

15 1. Fees and other costs charged to purchasers that  
16 affect account values or operational costs related to the  
17 program.

18 2. Past experience in records administration and  
19 current ability to provide timely and accurate service in the  
20 areas of records administration, audit and reconciliation,  
21 plan communication, participant service, and complaint  
22 resolution.

23 3. Sufficient staff and computer capability for the  
24 scope and level of service expected by the board.

25 4. Financial history and current financial strength  
26 and capital adequacy to provide administrative services  
27 required by the board.

28 (v) Establish other policies, procedures, and criteria  
29 to implement and administer the provisions of this section.

30 ~~(g) The board shall annually prepare or cause to be~~  
31 ~~prepared a report setting forth in appropriate detail an~~

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1 ~~accounting of the fund and a description of the financial~~  
 2 ~~condition of the program at the close of each fiscal year.~~  
 3 ~~Such report shall be submitted to the President of the Senate,~~  
 4 ~~the Speaker of the House of Representatives, and members of~~  
 5 ~~the State Board of Education on or before March 31 each year.~~  
 6 ~~In addition, the board shall make the report available to~~  
 7 ~~purchasers of advance payment contracts. The board shall~~  
 8 ~~provide to the Board of Regents and the State Board of~~  
 9 ~~Community Colleges by March 31 each year complete advance~~  
 10 ~~payment contract sales information including projected~~  
 11 ~~postsecondary enrollments of qualified beneficiaries. The~~  
 12 ~~accounts of the fund shall be subject to annual audits by the~~  
 13 ~~Auditor General or his or her designee.~~

14       (8)(h) QUALIFIED STATE TUITION PROGRAM  
 15 STATUS.--Notwithstanding any other provision of this section,  
 16 the board may adopt rules necessary to enable the program to  
 17 retain its status as a "qualified state tuition prepaid  
 18 program" in order to maintain its tax exempt status or other  
 19 similar status of the program, purchasers, and qualified  
 20 beneficiaries under the Internal Revenue Code of 1986, as  
 21 defined in s. 220.03(1). The board shall inform purchasers of  
 22 changes to the tax or securities status of contracts purchased  
 23 through the program.

24       (i) ~~The board shall solicit proposals for the~~  
 25 ~~marketing of the Florida Prepaid Postsecondary Education~~  
 26 ~~Expense Program pursuant to s. 287.057. The entity designated~~  
 27 ~~pursuant to this paragraph shall serve as a centralized~~  
 28 ~~marketing agent for the program and shall be solely~~  
 29 ~~responsible for the marketing of the program. Any materials~~  
 30 ~~produced for the purpose of marketing the program shall be~~  
 31 ~~submitted to the board for review. No such materials shall be~~

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1 ~~made available to the public before the materials are approved~~  
2 ~~by the board. Any educational institution may distribute~~  
3 ~~marketing materials produced for the program; however, all~~  
4 ~~such materials shall have been approved by the board prior to~~  
5 ~~distribution. Neither the state nor the board shall be liable~~  
6 ~~for misrepresentation of the program by a marketing agent.~~

7 ~~(j) The board may establish a direct support~~  
8 ~~organization which is:~~

9 ~~1. A Florida corporation, not for profit, incorporated~~  
10 ~~under the provisions of chapter 617 and approved by the~~  
11 ~~Secretary of State.~~

12 ~~2. Organized and operated exclusively to receive,~~  
13 ~~hold, invest, and administer property and to make expenditures~~  
14 ~~to or for the benefit of the program.~~

15 ~~3. An organization which the board, after review, has~~  
16 ~~certified to be operating in a manner consistent with the~~  
17 ~~goals of the program and in the best interests of the state.~~  
18 ~~Unless so certified, the organization may not use the name of~~  
19 ~~the program.~~

20 ~~4. Subject to an annual postaudit by an independent~~  
21 ~~certified public accountant in accordance with rules~~  
22 ~~promulgated by the board. The annual audit shall be submitted~~  
23 ~~to the State Board of Administration and the Auditor General~~  
24 ~~for review. The State Board of Administration and Auditor~~  
25 ~~General shall have the authority to require and receive from~~  
26 ~~the organization or its independent auditor any detail or~~  
27 ~~supplemental data relative to the operation of the~~  
28 ~~organization. The identity of donors who desire to remain~~  
29 ~~anonymous shall be confidential and exempt from the provisions~~  
30 ~~of s. 119.07(1) and s. 24(a), Art. I of the State~~  
31 ~~Constitution, and such anonymity shall be maintained in the~~



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1 ~~auditor's report. Information received by the organization~~  
2 ~~that is otherwise confidential or exempt by law shall retain~~  
3 ~~such status. Any sensitive, personal information regarding~~  
4 ~~contract beneficiaries, including their identities, is exempt~~  
5 ~~from the provisions of s. 119.07(1) and s. 24(a), Art. I of~~  
6 ~~the State Constitution.~~

7  
8 ~~The chair of the board and the executive director shall be~~  
9 ~~directors of the direct-support organization and shall jointly~~  
10 ~~name three other individuals to serve as directors of the~~  
11 ~~organization.~~

12 ~~(k) The board may endorse insurance coverage written~~  
13 ~~exclusively for the purpose of protecting advance payment~~  
14 ~~contracts, and the purchasers or beneficiaries thereof, which~~  
15 ~~may be issued in the form of a group life policy and which is~~  
16 ~~exempt from the provisions of part V of chapter 627.~~

17 (9) PREPAID COLLEGE PLANS.--At a minimum, the board  
18 shall make advance payment contracts available for two  
19 independent plans to be known as the community college plan  
20 and the university plan. The board may also make advance  
21 payment contracts available for a dormitory residence plan.

22 (a)1. Through the community college plan, the advance  
23 payment contract shall provide prepaid registration fees for a  
24 specified number of undergraduate semester credit hours not to  
25 exceed the average number of hours required for the conference  
26 of an associate degree. The cost of participation in the  
27 community college plan shall be based primarily on the average  
28 current and projected registration fees within the State  
29 Community College System and the number of years expected to  
30 elapse between the purchase of the plan on behalf of a  
31 qualified beneficiary and the exercise of the benefits

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1 provided in the plan by such beneficiary. Qualified  
2 beneficiaries shall bear the cost of any laboratory fees  
3 associated with enrollment in specific courses. Each qualified  
4 beneficiary shall be classified as a resident for tuition  
5 purposes, pursuant to s. 240.1201, regardless of his or her  
6 actual legal residence.

7 2. Effective July 1, 1998, the board may provide  
8 advance payment contracts for additional fees delineated in s.  
9 240.35, not to exceed the average number of hours required for  
10 the conference of an associate degree, in conjunction with  
11 advance payment contracts for registration fees. The cost of  
12 purchasing such fees shall be based primarily on the average  
13 current and projected fees within the State Community College  
14 System and the number of years expected to elapse between the  
15 purchase of the plan on behalf of the beneficiary and the  
16 exercise of benefits provided in the plan by such beneficiary.  
17 Community college plan contracts purchased prior to July 1,  
18 1998, shall be limited to the payment of registration fees as  
19 defined in subsection (2).

20 (b)1. Through the university plan, the advance payment  
21 contract shall provide prepaid registration fees for a  
22 specified number of undergraduate semester credit hours not to  
23 exceed the average number of hours required for the conference  
24 of a baccalaureate degree. The cost of participation in the  
25 university plan shall be based primarily on the current and  
26 projected registration fees within the State University System  
27 and the number of years expected to elapse between the  
28 purchase of the plan on behalf of a qualified beneficiary and  
29 the exercise of the benefits provided in the plan by such  
30 beneficiary. Qualified beneficiaries shall bear the cost of  
31 any laboratory fees associated with enrollment in specific

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1 courses. Each qualified beneficiary shall be classified as a  
2 resident for tuition purposes pursuant to s. 240.1201,  
3 regardless of his or her actual legal residence.

4 2. Effective July 1, 1998, the board may provide  
5 advance payment contracts for additional fees delineated in s.  
6 240.235(1), for a specified number of undergraduate semester  
7 credit hours not to exceed the average number of hours  
8 required for the conference of a baccalaureate degree, in  
9 conjunction with advance payment contracts for registration  
10 fees. Such contracts shall provide prepaid coverage for the  
11 sum of such fees, to a maximum of 45 percent of the cost of  
12 registration fees. The costs of purchasing such fees shall be  
13 based primarily on the average current and projected cost of  
14 these fees within the State University System and the number  
15 of years expected to elapse between the purchase of the plan  
16 on behalf of the qualified beneficiary and the exercise of the  
17 benefits provided in the plan by such beneficiary. University  
18 plan contracts purchased prior to July 1, 1998, shall be  
19 limited to the payment of registration fees as defined in  
20 subsection (2).

21 (c) Through the dormitory residence plan, the advance  
22 payment contract may provide prepaid housing fees for a  
23 maximum of 10 semesters of full-time undergraduate enrollment  
24 in a state university. Dormitory residence plans shall be  
25 purchased in increments of 2 semesters. The cost of  
26 participation in the dormitory residence plan shall be based  
27 primarily on the average current and projected housing fees  
28 within the State University System and the number of years  
29 expected to elapse between the purchase of the plan on behalf  
30 of a qualified beneficiary and the exercise of the benefits  
31 provided in the plan by such beneficiary. Qualified

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1 beneficiaries shall have the highest priority in the  
2 assignment of housing within university residence halls.  
3 Qualified beneficiaries shall bear the cost of any additional  
4 elective charges such as laundry service or long-distance  
5 telephone service. Each state university may specify the  
6 residence halls or other university-held residences eligible  
7 for inclusion in the plan. In addition, any state university  
8 may request immediate termination of a dormitory residence  
9 contract based on a violation or multiple violations of rules  
10 of the residence hall or other university-held residences. In  
11 the event that sufficient housing is not available for all  
12 qualified beneficiaries, the board shall refund the purchaser  
13 or qualified beneficiary an amount equal to the fees charged  
14 for dormitory residence during that semester. If a qualified  
15 beneficiary fails to be admitted to a state university or  
16 chooses to attend a community college that operates one or  
17 more dormitories or residency opportunities, or has one or  
18 more dormitories or residency opportunities operated by the  
19 community college direct-support organization, the qualified  
20 beneficiary may transfer or cause to have transferred to the  
21 community college, or community college direct-support  
22 organization, the fees associated with dormitory residence.  
23 Dormitory fees transferred to the community college or  
24 community college direct-support organization may not exceed  
25 the maximum fees charged for state university dormitory  
26 residence for the purposes of this section, or the fees  
27 charged for community college or community college  
28 direct-support organization dormitories or residency  
29 opportunities, whichever is less.

30 (10) TRANSFER OF BENEFITS TO PRIVATE AND OUT-OF-STATE  
31 COLLEGES AND UNIVERSITIES.--

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1           (a) A qualified beneficiary may apply a community  
2 college plan, university plan, or dormitory residence plan  
3 toward any eligible independent college or university. An  
4 independent college or university which is located and  
5 chartered in Florida, is not for profit, is accredited by the  
6 Commission on Colleges of the Southern Association of Colleges  
7 and Schools or the Accrediting Commission of the Association  
8 of Independent Colleges and Schools, and which confers degrees  
9 as defined in s. 246.021, shall be eligible for such  
10 application. The board shall transfer, or cause to have  
11 transferred, to the eligible independent college or university  
12 designated by the qualified beneficiary an amount not to  
13 exceed the redemption value of the advance payment contract  
14 within a state postsecondary institution. In the event that  
15 the cost of registration or housing fees at the independent  
16 college or university is less than the corresponding fees at a  
17 state postsecondary institution, the amount transferred shall  
18 not exceed the actual cost of registration or housing fees. No  
19 transfer authorized pursuant to this paragraph shall exceed  
20 the number of semester credit hours or semesters of dormitory  
21 residence contracted on behalf of a qualified beneficiary.

22           (b) A qualified beneficiary may apply the benefits of  
23 an advance payment contract toward an eligible out-of-state  
24 college or university. An out-of-state college or university  
25 which is not for profit and is accredited by a regional  
26 accrediting association, and which confers baccalaureate  
27 degrees, shall be eligible for such application. The board  
28 shall transfer, or cause to have transferred, an amount not to  
29 exceed the redemption value of the advance payment contract or  
30 the original purchase price plus 5 percent compounded  
31 interest, whichever is less, after assessment of a reasonable

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1 transfer fee. In the event that the cost of registration or  
2 housing fees charged the qualified beneficiary at the eligible  
3 out-of-state college or university is less than this  
4 calculated amount, the amount transferred shall not exceed the  
5 actual cost of registration or housing fees. Any remaining  
6 amount shall be transferred in subsequent semesters until the  
7 transfer value is depleted. No transfer authorized pursuant to  
8 this paragraph shall exceed the number of semester credit  
9 hours or semesters of dormitory residence contracted on behalf  
10 of a qualified beneficiary.

11 (11)(6)(a) ADVANCE PAYMENT CONTRACTS; CONTENTS.--The  
12 board shall construct advance payment contracts for  
13 registration and may construct advance payment contracts for  
14 dormitory residence as provided in ~~accordance with the~~  
15 ~~provisions of~~ this section. Advance payment contracts  
16 constructed for the purposes of this section shall be exempt  
17 from ~~the provisions of~~ chapter 517 and the Florida Insurance  
18 Code. ~~The board may request assistance from the Department of~~  
19 ~~Legal Affairs in the development of the advance payment~~  
20 ~~contracts. The contents of both~~ Such contracts shall include,  
21 but not be limited to, the following:

22 (a)1. The amount of the payment or payments and the  
23 number of payments required from a purchaser on behalf of a  
24 qualified beneficiary.

25 (b)2. The terms and conditions under which purchasers  
26 shall remit payments, including, but not limited to, the date  
27 or dates upon which each payment shall be due.

28 (c)3. Provisions for late payment charges and for  
29 default.

30 (d)4. Provisions for penalty fees for withdrawals from  
31 the fund.

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1           ~~(e)5.~~ Except for an advance payment contract entered  
2 into pursuant to subsection (22)~~paragraph (5)(j)~~, the name  
3 and date of birth of the qualified beneficiary on whose behalf  
4 the contract is drawn and the terms and conditions under which  
5 another person may be substituted as the qualified  
6 beneficiary.

7           ~~(f)6.~~ The name of any person who may terminate the  
8 contract. The terms of the contract shall specify whether the  
9 contract may be terminated by the purchaser, the qualified  
10 beneficiary, a specific designated person, or any combination  
11 of these persons.

12           ~~(g)7.~~ The terms and conditions under which a contract  
13 may be terminated, modified, or converted, the name of the  
14 person entitled to any refund due as a result of termination  
15 of the contract pursuant to such terms and conditions, and the  
16 amount of refund, if any, due to the person so named.

17           ~~8.~~ ~~The time limitations, if any, within which the~~  
18 ~~qualified beneficiary must claim his or her benefits through~~  
19 ~~the program.~~

20           ~~9.~~ ~~Other terms and conditions deemed by the board to~~  
21 ~~be necessary or proper.~~

22           ~~(b)~~ ~~In addition to the provisions of paragraph (a), an~~  
23 ~~advance payment contract for registration shall include, but~~  
24 ~~not be limited to, the following:~~

25           ~~(h)1.~~ The number of semester credit hours or semesters  
26 of dormitory residence contracted by the purchaser.

27           ~~(i)2.~~ The state postsecondary system toward which the  
28 contracted credit hours or semesters of dormitory residence  
29 will be applied.

30           ~~(j)3.~~ The assumption of a contractual obligation by  
31 the board to the qualified beneficiary to provide for a

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1 specified number of semester credit hours of undergraduate  
 2 instruction at a state postsecondary institution, not to  
 3 exceed the average number of credit hours required for the  
 4 conference of the degree that corresponds to the plan  
 5 purchased on behalf of the qualified beneficiary or to provide  
 6 for a specified number of semesters of dormitory residence,  
 7 not to exceed the number of semesters of full-time enrollment  
 8 required for the conference of a baccalaureate degree.

9 (k) Other terms and conditions deemed by the board to  
 10 be necessary or proper.

11 ~~(c) In addition to the provisions of paragraph (a), an~~  
 12 ~~advance payment contract for dormitory residence shall~~  
 13 ~~include, but not be limited to, the following:~~

14 1. ~~The number of semesters of dormitory residence~~  
 15 ~~contracted by the purchaser.~~

16 2. ~~The assumption of a contractual obligation by the~~  
 17 ~~board to the qualified beneficiary to provide for a specified~~  
 18 ~~number of semesters of dormitory residence at a state~~  
 19 ~~university, not to exceed the maximum number of semesters of~~  
 20 ~~full-time enrollment required for the conference of a~~  
 21 ~~baccalaureate degree.~~

22 (12)(d) DURATION OF BENEFITS; ADVANCE PAYMENT  
 23 CONTRACT.--An advance payment contract may provide that  
 24 contracts which have not been terminated or the benefits  
 25 exercised within a specified period of time shall be  
 26 considered terminated. Time expended by a qualified  
 27 beneficiary as an active duty member of any of the armed  
 28 services of the United States shall be added to the period of  
 29 time specified pursuant to this subsection paragraph. No  
 30 purchaser or qualified beneficiary whose advance payment  
 31 contract is terminated pursuant to this subsection paragraph



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1 shall be entitled to a refund. The board shall retain any  
 2 moneys paid by the purchaser for an advance payment contract  
 3 that has been terminated in accordance with this subsection  
 4 ~~paragraph~~. Such moneys retained by the board are exempt from  
 5 chapter 717, and such retained moneys must be used by the  
 6 board to further the purposes of this section.

7 (13) REFUNDS.--

8 (a)(e)1. Except as provided in paragraphs (b) and (c),  
 9 no refund ~~provided pursuant to subparagraph (a)7.~~ shall exceed  
 10 the amount paid into the fund by the purchaser. ~~In the event~~  
 11 ~~that an advance payment contract is converted from a~~  
 12 ~~university to a community college registration plan, the~~  
 13 ~~refund amount shall be reduced by the amount transferred to a~~  
 14 ~~community college on behalf of the qualified beneficiary.~~  
 15 ~~However, refunds may exceed the amount paid into the fund in~~  
 16 ~~the following circumstances:~~

17 (b)a. If the beneficiary is awarded a scholarship, the  
 18 terms of which cover the benefits included in the advance  
 19 payment contracts, moneys paid for the purchase of the advance  
 20 payment contracts shall be returned to the purchaser in  
 21 semester installments coinciding with the matriculation by the  
 22 beneficiary in amounts of either the original purchase price  
 23 plus 5 percent compounded interest, or the current rates at  
 24 state postsecondary institutions, whichever is less.

25 (c)b. In the event of the death or total disability of  
 26 the beneficiary, moneys paid for the purchase of advance  
 27 payment contracts shall be returned to the purchaser together  
 28 with 5 percent compounded interest, or the current rates at  
 29 state postsecondary institutions, whichever is less.

30 (d)e. If an advance payment contract is converted from  
 31 one registration plan to a plan of lesser value ~~a university~~

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1 ~~plan to a community college plan or a community college plus~~  
2 ~~university plan, or is converted from a community college plus~~  
3 ~~university plan to a community college plan, the amount~~  
4 refunded shall not exceed the difference between the amount  
5 paid for the original contract and the amount that would have  
6 been paid for the contract to which the plan is converted had  
7 the converted plan been purchased under the same payment plan  
8 at the time the original advance payment contract was  
9 executed.

10 ~~(e)2.~~ No refund shall be authorized through an advance  
11 payment contract for any school year partially attended but  
12 not completed. For purposes of this section, a school year  
13 partially attended but not completed shall mean any one  
14 semester whereby the student is still enrolled at the  
15 conclusion of the official drop-add period, but withdraws  
16 before the end of such semester. If a beneficiary does not  
17 complete a community college plan or university plan for  
18 reasons other than specified in paragraph (c)subparagraph 1.,  
19 the purchaser shall receive a refund of the amount paid into  
20 the fund for the remaining unattended years of the advance  
21 payment contract pursuant to rules promulgated by the board.

22 ~~(14)(f)~~ CONFIDENTIALITY OF ACCOUNT  
23 INFORMATION.--Information that identifies the purchasers or  
24 beneficiaries of any plan promulgated under this section and  
25 their advance payment account activities is exempt from the  
26 provisions of s. 119.07(1). However, the board may authorize  
27 the program's records administrator to release such  
28 information to a community college, college, or university in  
29 which a beneficiary may enroll or is enrolled. Community  
30 colleges, colleges, and universities shall maintain such  
31 information as exempt from the provisions of s. 119.07(1).

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1           ~~(7) At a minimum, the board shall make advance payment~~  
2 ~~contracts available for two independent plans to be known as~~  
3 ~~the community college plan and the university plan. The board~~  
4 ~~may also make advance payment contracts available for a~~  
5 ~~dormitory residence plan.~~

6           ~~(a) Through the community college plan, the advance~~  
7 ~~payment contract shall provide prepaid registration fees for a~~  
8 ~~specified number of undergraduate semester credit hours not to~~  
9 ~~exceed the average number of hours required for the conference~~  
10 ~~of an associate degree. The cost of participation in the~~  
11 ~~community college plan shall be based primarily on the average~~  
12 ~~current and projected registration fees within the State~~  
13 ~~Community College System and the number of years expected to~~  
14 ~~elapse between the purchase of the plan on behalf of a~~  
15 ~~qualified beneficiary and the exercise of the benefits~~  
16 ~~provided in the plan by such beneficiary. Qualified~~  
17 ~~beneficiaries shall bear the cost of any laboratory fees~~  
18 ~~associated with enrollment in specific courses. Each~~  
19 ~~qualified beneficiary shall be classified as a resident for~~  
20 ~~tuition purposes pursuant to s. 240.1201 regardless of his or~~  
21 ~~her actual legal residence.~~

22           ~~(b) Through the university plan, the advance payment~~  
23 ~~contract shall provide prepaid registration fees for a~~  
24 ~~specified number of undergraduate semester credit hours not to~~  
25 ~~exceed the average number of hours required for the conference~~  
26 ~~of a baccalaureate degree. The cost of participation in the~~  
27 ~~university plan shall be based primarily on the current and~~  
28 ~~projected registration fees within the State University System~~  
29 ~~and the number of years expected to elapse between the~~  
30 ~~purchase of the plan on behalf of a qualified beneficiary and~~  
31 ~~the exercise of the benefits provided in the plan by such~~

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1 beneficiary. ~~Qualified beneficiaries shall bear the cost of~~  
2 ~~any laboratory fees associated with enrollment in specific~~  
3 ~~courses. In the event that a qualified beneficiary fails to~~  
4 ~~be admitted to a state university or chooses to attend a~~  
5 ~~community college, the qualified beneficiary may convert the~~  
6 ~~average number of semester credit hours required for the~~  
7 ~~conference of an associate degree from a university plan to a~~  
8 ~~community college plan and may retain the remaining semester~~  
9 ~~credit hours in the university plan or may request a refund~~  
10 ~~for prepaid credit hours in excess of the average number of~~  
11 ~~semester credit hours required for the conference of an~~  
12 ~~associate degree pursuant to subparagraph (6)(a)7. Each~~  
13 ~~qualified beneficiary shall be classified as a resident for~~  
14 ~~tuition purposes pursuant to s. 240.1201 regardless of his or~~  
15 ~~her actual legal residence.~~

16 ~~(c) Through the dormitory residence plan, the advance~~  
17 ~~payment contract may provide prepaid housing fees for a~~  
18 ~~maximum of 10 semesters of full-time undergraduate enrollment~~  
19 ~~in a state university. Dormitory residence plans shall be~~  
20 ~~purchased in increments of 2 semesters. The cost of~~  
21 ~~participation in the dormitory residence plan shall be based~~  
22 ~~primarily on the average current and projected housing fees~~  
23 ~~within the State University System and the number of years~~  
24 ~~expected to elapse between the purchase of the plan on behalf~~  
25 ~~of a qualified beneficiary and the exercise of the benefits~~  
26 ~~provided in the plan by such beneficiary. Qualified~~  
27 ~~beneficiaries shall bear the cost of any additional elective~~  
28 ~~charges such as laundry service or long-distance telephone~~  
29 ~~service. Each state university may specify the residence~~  
30 ~~halls or other university-held residences eligible for~~  
31 ~~inclusion in the plan. In addition, any state university may~~

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1 ~~request immediate termination of a dormitory residence~~  
2 ~~contract based on a violation or multiple violations of rules~~  
3 ~~of the residence hall or other university-held residences.~~  
4 ~~Qualified beneficiaries shall have the highest priority in the~~  
5 ~~assignment of housing within university residence halls. In~~  
6 ~~the event that sufficient housing is not available for all~~  
7 ~~qualified beneficiaries, the board shall refund the purchaser~~  
8 ~~or qualified beneficiary an amount equal to the fees charged~~  
9 ~~for dormitory residence during that semester. If a qualified~~  
10 ~~beneficiary fails to be admitted to a state university or~~  
11 ~~chooses to attend a community college that operates one or~~  
12 ~~more dormitories or residency opportunities, or has one or~~  
13 ~~more dormitories or residency opportunities operated by the~~  
14 ~~community college direct-support organization, the qualified~~  
15 ~~beneficiary may transfer or cause to have transferred to the~~  
16 ~~community college, or community college direct-support~~  
17 ~~organization, the fees associated with dormitory residence.~~  
18 ~~Dormitory fees transferred to the community college or~~  
19 ~~community college direct-support organization may not exceed~~  
20 ~~the maximum fees charged for state university dormitory~~  
21 ~~residence for the purposes of this section, or the fees~~  
22 ~~charged for community college or community college~~  
23 ~~direct-support organization dormitories or residency~~  
24 ~~opportunities, whichever is less.~~

25 ~~(d) A qualified beneficiary may apply a community~~  
26 ~~college plan, university plan, or dormitory residence plan~~  
27 ~~toward any eligible independent college or university. An~~  
28 ~~independent college or university which is located and~~  
29 ~~chartered in Florida, is not for profit, is accredited by the~~  
30 ~~Commission on Colleges of the Southern Association of Colleges~~  
31 ~~and Schools or the Accrediting Commission of the Association~~

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1 ~~of Independent Colleges and Schools, and which confers degrees~~  
2 ~~as defined in s. 246.021 shall be eligible for such~~  
3 ~~application. The board shall transfer or cause to have~~  
4 ~~transferred to the eligible independent college or university~~  
5 ~~designated by the qualified beneficiary an amount not to~~  
6 ~~exceed the redemption value of the advance payment contract~~  
7 ~~within a state postsecondary institution. In the event that~~  
8 ~~the cost of registration or housing fees at the independent~~  
9 ~~college or university is less than the corresponding fees at a~~  
10 ~~state postsecondary institution, the amount transferred shall~~  
11 ~~not exceed the actual cost of registration or housing fees.~~  
12 ~~No transfer authorized pursuant to this paragraph shall exceed~~  
13 ~~the number of semester credit hours or semesters of dormitory~~  
14 ~~residence contracted on behalf of a qualified beneficiary.~~  
15 ~~(e) A qualified beneficiary may apply the benefits of~~  
16 ~~an advance payment contract toward an eligible out-of-state~~  
17 ~~college or university. An out-of-state college or university~~  
18 ~~which is not for profit, is accredited by a regional~~  
19 ~~accrediting association, and which confers baccalaureate~~  
20 ~~degrees shall be eligible for such application. The board~~  
21 ~~shall transfer, or cause to have transferred, an amount not to~~  
22 ~~exceed the redemption value of the advance payment contract or~~  
23 ~~the original purchase price plus 5 percent compounded~~  
24 ~~interest, whichever is less, after assessment of a reasonable~~  
25 ~~transfer fee. In the event that the cost of registration or~~  
26 ~~housing fees charged the qualified beneficiary at the eligible~~  
27 ~~out-of-state college or university is less than this~~  
28 ~~calculated amount, the amount transferred shall not exceed the~~  
29 ~~actual cost of registration or housing fees. Any remaining~~  
30 ~~amount shall be transferred in subsequent semesters until the~~  
31 ~~transfer value is depleted. No transfer authorized pursuant~~

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1 ~~to this paragraph shall exceed the number of semester credit~~  
2 ~~hours or semesters of dormitory residence contracted on behalf~~  
3 ~~of a qualified beneficiary.~~

4 ~~(8) The board shall solicit proposals for the~~  
5 ~~operation of the Florida Prepaid Postsecondary Education~~  
6 ~~Expense Program pursuant to s. 287.057, through which the~~  
7 ~~board shall contract for the services of a records~~  
8 ~~administrator, a trustee services firm, and one or more~~  
9 ~~product providers.~~

10 ~~(a) The records administrator shall be the entity~~  
11 ~~designated by the board to conduct the daily operations of the~~  
12 ~~program on behalf of the board. The goals of the board in~~  
13 ~~selecting a records administrator shall be to provide all~~  
14 ~~purchasers with the most secure, well-diversified, and~~  
15 ~~beneficially administered postsecondary education expense plan~~  
16 ~~possible, to allow all qualified firms interested in providing~~  
17 ~~such services equal consideration, and to provide such~~  
18 ~~services to the state at no cost and to the purchasers at the~~  
19 ~~lowest cost possible. Evaluations of proposals submitted~~  
20 ~~pursuant to this paragraph shall include, but not be limited~~  
21 ~~to, the following criteria:~~

22 ~~1. Fees and other costs charged to purchasers that~~  
23 ~~affect account values or operational costs related to the~~  
24 ~~program.~~

25 ~~2. Past experience in records administration and~~  
26 ~~current ability to provide timely and accurate service in the~~  
27 ~~areas of records administration, audit and reconciliation,~~  
28 ~~plan communication, participant service, and complaint~~  
29 ~~resolution.~~

30 ~~3. Sufficient staff and computer capability for the~~  
31 ~~scope and level of service expected by the board.~~

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1           ~~4. Financial history and current financial strength~~  
2 ~~and capital adequacy to provide administrative services~~  
3 ~~required by the board.~~

4           ~~(b) The trustee services firm shall be the entity~~  
5 ~~designated by the board to select and supervise investment~~  
6 ~~programs on behalf of the board. The goals of the board in~~  
7 ~~selecting a trustee services firm shall be to obtain the~~  
8 ~~highest standards of professional trustee services, to allow~~  
9 ~~all qualified firms interested in providing such services~~  
10 ~~equal consideration, and to provide such services to the state~~  
11 ~~at no cost and to the purchasers at the lowest cost possible.~~  
12 ~~The trustee services firm shall agree to meet the obligations~~  
13 ~~of the board to qualified beneficiaries if moneys in the fund~~  
14 ~~fail to offset the obligations of the board as a result of~~  
15 ~~imprudent selection or supervision of investment programs by~~  
16 ~~such firm. Evaluations of proposals submitted pursuant to~~  
17 ~~this paragraph shall include, but not be limited to, the~~  
18 ~~following criteria:~~

19           ~~1. Adequacy of trustee services for supervision and~~  
20 ~~management of the program, including current operations and~~  
21 ~~staff organization and commitment of management to the~~  
22 ~~proposal.~~

23           ~~2. Capability to execute program responsibilities~~  
24 ~~within time and regulatory constraints.~~

25           ~~3. Past experience in trustee services and current~~  
26 ~~ability to maintain regular and continuous interactions with~~  
27 ~~the board, records administrator, and product provider.~~

28           ~~4. The minimum purchaser participation assumed within~~  
29 ~~the proposal and any additional requirements of purchasers.~~

30           ~~5. Adequacy of technical assistance and services~~  
31 ~~proposed for staff.~~



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1           ~~6. Adequacy of a management system for evaluating and~~  
2 ~~improving overall trustee services to the program.~~

3           ~~7. Adequacy of facilities, equipment, and electronic~~  
4 ~~data processing services.~~

5           ~~8. Detailed projections of administrative costs,~~  
6 ~~including the amount and type of insurance coverage, and~~  
7 ~~detailed projections of total costs.~~

8           ~~(c)1. The product providers shall be the entities~~  
9 ~~designated by the board to develop investment portfolios on~~  
10 ~~behalf of the board to achieve the purposes of this section.~~  
11 ~~Product providers shall be limited to authorized insurers as~~  
12 ~~defined in s. 624.09, banks as defined in s. 658.12,~~  
13 ~~associations as defined in s. 665.012, authorized Securities~~  
14 ~~and Exchange Commission investment advisers, and investment~~  
15 ~~companies as defined in the Investment Company Act of 1940.~~  
16 ~~All product providers shall have their principal place of~~  
17 ~~business and corporate charter located and registered in the~~  
18 ~~United States. In addition, each product provider shall agree~~  
19 ~~to meet the obligations of the board to qualified~~  
20 ~~beneficiaries if moneys in the fund fail to offset the~~  
21 ~~obligations of the board as a result of imprudent investing by~~  
22 ~~such provider. Each authorized insurer shall evidence superior~~  
23 ~~performance overall on an acceptable level of surety in~~  
24 ~~meeting its obligations to its policyholders and other~~  
25 ~~contractual obligations. Only qualified public depositories~~  
26 ~~approved by the State Insurance Commissioner and Treasurer~~  
27 ~~shall be eligible for board consideration. Each investment~~  
28 ~~company shall provide investment plans as specified within the~~  
29 ~~request for proposals.~~

30           ~~2. The goals of the board in selecting a product~~  
31 ~~provider company shall be to provide all purchasers with the~~

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1 ~~most secure, well-diversified, and beneficially administered~~  
 2 ~~postsecondary education expense plan possible, to allow all~~  
 3 ~~qualified firms interested in providing such services equal~~  
 4 ~~consideration, and to provide such services to the state at no~~  
 5 ~~cost and to the purchasers at the lowest cost possible.~~

6 ~~Evaluations of proposals submitted pursuant to this paragraph~~  
 7 ~~shall include, but not be limited to, the following criteria:~~

8 ~~a. Fees and other costs charged to purchasers that~~  
 9 ~~affect account values or operational costs related to the~~  
 10 ~~program.~~

11 ~~b. Past and current investment performance, including~~  
 12 ~~investment and interest rate history, guaranteed minimum rates~~  
 13 ~~of interest, consistency of investment performance, and any~~  
 14 ~~terms and conditions under which moneys are held.~~

15 ~~c. Past experience and ability to provide timely and~~  
 16 ~~accurate service in the areas of records administration,~~  
 17 ~~benefit payments, investment management, and complaint~~  
 18 ~~resolution.~~

19 ~~d. Financial history and current financial strength~~  
 20 ~~and capital adequacy to provide products, including operating~~  
 21 ~~procedures and other methods of protecting program assets.~~

22 ~~(15)(9) OBLIGATIONS OF BOARD; PAYMENT.--~~The state  
 23 shall agree to meet the obligations of the board to qualified  
 24 beneficiaries if moneys in the fund fail to offset the  
 25 obligations of the board. The Legislature shall appropriate to  
 26 the Florida Prepaid College Postsecondary Education Expense  
 27 Trust Fund the amount necessary to meet the obligations of the  
 28 board to qualified beneficiaries.

29 ~~(16)(10) ASSETS OF THE FUND; EXPENDITURE~~  
 30 PRIORITY.--The assets of the fund shall be maintained,  
 31 invested, and expended solely for the purposes of this section

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1 and shall not be loaned, transferred, or otherwise used by the  
 2 state for any purpose other than the purposes of this section.  
 3 This subsection shall not be construed to prohibit the board  
 4 from investing in, by purchase or otherwise, bonds, notes, or  
 5 other obligations of the state or an agency or instrumentality  
 6 of the state. Unless otherwise specified by the board, assets  
 7 of the fund shall be expended in the following order of  
 8 priority:

9 (a) To make payments to state postsecondary  
 10 institutions on behalf of qualified beneficiaries.

11 (b) To make refunds upon termination of advance  
 12 payment contracts.

13 (c) To pay the costs of program administration and  
 14 operations.

15 (17)(11) EXEMPTION FROM CLAIMS OF CREDITORS.--Moneys  
 16 paid into or out of the fund by or on behalf of a purchaser or  
 17 qualified beneficiary of an advance payment contract made  
 18 under this section, which contract has not been terminated,  
 19 are exempt, as provided by s. 222.22, from all claims of  
 20 creditors of the purchaser or the beneficiary. Neither moneys  
 21 paid into the program nor benefits accrued through the program  
 22 may be pledged for the purpose of securing a loan.

23 (18)(12) PAYROLL DEDUCTION AUTHORITY.--The state or  
 24 any state agency, county, municipality, or other political  
 25 subdivision may, by contract or collective bargaining  
 26 agreement, agree with any employee to remit payments toward  
 27 advance payment contracts through payroll deductions made by  
 28 the appropriate officer or officers of the state, state  
 29 agency, county, municipality, or political subdivision. Such  
 30 payments shall be held and administered in accordance with  
 31 this section.

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1            ~~(19)(13)~~ DISCLAIMER.--Nothing in this section shall be  
2 construed as a promise or guarantee that a qualified  
3 beneficiary will be admitted to a state postsecondary  
4 institution or to a particular state postsecondary  
5 institution, will be allowed to continue enrollment at a state  
6 postsecondary institution after admission, or will be  
7 graduated from a state postsecondary institution.

8            ~~(20)(14)~~ PROGRAM TERMINATION.--In the event that the  
9 state determines the program to be financially infeasible, the  
10 state may discontinue the provision of the program. Any  
11 qualified beneficiary who has been accepted by and is enrolled  
12 or is within 5 years of enrollment in an eligible independent  
13 college or university or state postsecondary institution shall  
14 be entitled to exercise the complete benefits for which he or  
15 she has contracted. All other contract holders shall receive  
16 a refund, ~~pursuant to subparagraph (6)(a)7.~~ of the amount  
17 paid in and an additional amount in the nature of interest at  
18 a rate that corresponds, at a minimum, to the prevailing  
19 interest rates for savings accounts provided by banks and  
20 savings and loan associations.

21            (21) ANNUAL REPORT.--The board shall annually prepare  
22 or cause to be prepared a report setting forth in appropriate  
23 detail an accounting of the fund and a description of the  
24 financial condition of the program at the close of each fiscal  
25 year. Such report shall be submitted to the President of the  
26 Senate, the Speaker of the House of Representatives, and  
27 members of the State Board of Education on or before March 31  
28 each year. In addition, the board shall make the report  
29 available to purchasers of advance payment contracts. The  
30 board shall provide to the Board of Regents and the State  
31 Board of Community Colleges, by March 31 each year, complete

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1 advance payment contract sales information, including  
2 projected postsecondary enrollments of qualified  
3 beneficiaries. The accounts of the fund shall be subject to  
4 annual audits by the Auditor General or his or her designee.

5 (22) DIRECT-SUPPORT ORGANIZATION; AUTHORITY.--

6 (a) The board may establish a direct-support  
7 organization which is:

8 1. A Florida corporation, not for profit, incorporated  
9 under the provisions of chapter 617 and approved by the  
10 Secretary of State.

11 2. Organized and operated exclusively to receive,  
12 hold, invest, and administer property and to make expenditures  
13 to or for the benefit of the program.

14 3. An organization which the board, after review, has  
15 certified to be operating in a manner consistent with the  
16 goals of the program and in the best interests of the state.  
17 Unless so certified, the organization may not use the name of  
18 the program.

19 4. Subject to an annual postaudit by an independent  
20 certified public accountant in accordance with rules  
21 promulgated by the board. The annual audit shall be submitted  
22 to the State Board of Administration and the Auditor General  
23 for review. The State Board of Administration and Auditor  
24 General shall have the authority to require and receive from  
25 the organization or its independent auditor any detail or  
26 supplemental data relative to the operation of the  
27 organization. The identity of donors who desire to remain  
28 anonymous shall be confidential and exempt from the provisions  
29 of s. 119.07(1) and s. 24(a), Art. I of the State  
30 Constitution, and such anonymity shall be maintained in the  
31 auditor's report. Information received by the organization

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1 that is otherwise confidential or exempt by law shall retain  
2 such status. Any sensitive, personal information regarding  
3 contract beneficiaries, including their identities, is exempt  
4 from the provisions of s. 119.07(1) and s. 24(a), Art. I of  
5 the State Constitution.

6 (b) The chair and the executive director of the board  
7 shall be directors of the direct-support organization and  
8 shall jointly name three other individuals to serve as  
9 directors of the organization.

10 Section 40. Section 222.22, Florida Statutes, is  
11 amended to read:

12 222.22 Exemption of moneys in the Prepaid  
13 Postsecondary Education Expense Trust Fund from legal  
14 process.--Moneys paid into or out of the Florida Prepaid  
15 College ~~Postsecondary Education Expense~~ Trust Fund by or on  
16 behalf of a purchaser or qualified beneficiary pursuant to an  
17 advance payment contract made under s. 240.551, which contract  
18 has not been terminated, are not liable to attachment,  
19 garnishment, or legal process in the state in favor of any  
20 creditor of the purchaser or beneficiary of such advance  
21 payment contract.

22 Section 41. Subsection (2) of section 732.402, Florida  
23 Statutes, is amended to read:

24 732.402 Exempt property.--

25 (2) Exempt property shall consist of:

26 (a) Household furniture, furnishings, and appliances  
27 in the decedent's usual place of abode up to a net value of  
28 \$10,000 as of the date of death. ~~and~~

29 (b) All automobiles held in the decedent's name and  
30 regularly used by the decedent or members of the decedent's  
31 immediate family as their personal automobiles.

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1           (c) Florida Prepaid College Program contracts  
2 purchased pursuant to s. 240.551.

3           Section 42. For the purpose of incorporating the  
4 amendment to s. 732.402, Florida Statutes, in references  
5 thereto, subsection (13) of section 731.201 and subsection (1)  
6 of section 735.301, Florida Statutes, are reenacted to read:

7           731.201 General definitions.--Subject to additional  
8 definitions in subsequent chapters that are applicable to  
9 specific chapters or parts, and unless the context otherwise  
10 requires, in this code and chapters 737, 738, and 744:

11           (13) "Exempt property" means the property of a  
12 decedent's estate which is described in s. 732.402.

13           735.301 Disposition without administration.--

14           (1) No administration shall be required or formal  
15 proceedings instituted upon the estate of a decedent leaving  
16 only personal property exempt under the provisions of s.  
17 732.402, personal property exempt from the claims of creditors  
18 under the Constitution of Florida, and nonexempt personal  
19 property the value of which does not exceed the sum of the  
20 amount of preferred funeral expenses and reasonable and  
21 necessary medical and hospital expenses of the last 60 days of  
22 the last illness.

23  
24 (Redesignate subsequent sections.)

25  
26

27 ===== T I T L E   A M E N D M E N T =====

28 And the title is amended as follows:

29           On page 2, line 22, after the semicolon,

30

31 insert:

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1           amending s. 240.551, F.S.; renaming the Florida  
2           Prepaid Postsecondary Education Expense  
3           Program, Board, and Trust Fund the Florida  
4           Prepaid College Program, Board, and Trust Fund,  
5           respectively; reordering provisions and  
6           providing technical revisions; deleting  
7           obsolete provisions; conforming  
8           cross-references; permitting soliciting and  
9           contracting for records administration  
10          services; providing for the inclusion of  
11          certain fees within advance payment contracts  
12          for tuition; amending s. 222.22, F.S.;  
13          conforming provisions; amending s. 732.402,  
14          F.S.; exempting Florida Prepaid College Program  
15          contracts from the probate claims of creditors;  
16          reenacting ss. 731.201(13) and 735.301(1),  
17          F.S., relating to probate, to incorporate the  
18          amendment to s. 732.402, F.S., in references;  
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