

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Clary moved the following amendment to amendment (640144):

**Senate Amendment (with title amendment)**

On page 66, between lines 6 and 7,

insert:

Section 48. Section 240.551, Florida Statutes, is amended to read:

240.551 Florida Prepaid College ~~Postsecondary~~ ~~Education Expense~~ Program.--

(1) LEGISLATIVE INTENT.--The Legislature recognizes that educational opportunity at the postsecondary level is a critical state interest. It further recognizes that educational opportunity is best ensured through the provision of postsecondary institutions that are geographically and financially accessible. Accordingly, it is the intent of the Legislature that a program be established through which many of the costs associated with postsecondary attendance may be paid in advance and fixed at a guaranteed level for the duration of undergraduate enrollment. It is similarly the

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1 intent of the Legislature to provide a program that fosters  
2 timely financial planning for postsecondary attendance and to  
3 encourage employer participation in such planning through  
4 program contributions on behalf of employees and the  
5 dependents of employees.

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

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

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

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

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

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

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

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

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1           (g)~~(h)~~ "Registration fee" means matriculation fee,  
2 financial aid fee, building fee, and Capital Improvement Trust  
3 Fund fee.

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

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

20 (5) PROGRAM ADMINISTRATION.--

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

27           ~~**(c)**(a) The Governor shall appoint a member of the~~  
28 ~~board to serve as the initial chair of the board. Thereafter,~~  
29 ~~the board shall elect a chair annually.~~ The board shall  
30 annually elect a board member to serve as chair and a board  
31 member to serve as vice chair and shall designate a

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1 secretary-treasurer who need not be a member of the board.  
2 The secretary-treasurer shall keep a record of the proceedings  
3 of the board and shall be the custodian of all printed  
4 material filed with or by the board and of its official seal.  
5 Notwithstanding the existence of vacancies on the board, a  
6 majority of the members shall constitute a quorum. The board  
7 shall take no official action in the absence of a quorum. The  
8 board shall meet, at a minimum, on a quarterly basis at the  
9 call of the chair.

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

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

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

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

31 (e) Solicit proposals and contract, pursuant to s.

Bill No. HB 4259, 1st Eng.

Amendment No.     

1 287.057, for a trustee services firm to select and supervise  
2 investment programs on behalf of the board. The goals of the  
3 board in selecting a trustee services firm shall be to obtain  
4 the highest standards of professional trustee services, to  
5 allow all qualified firms interested in providing such  
6 services equal consideration, and to provide such services to  
7 the state at no cost and to the purchasers at the lowest cost  
8 possible. The trustee services firm shall agree to meet the  
9 obligations of the board to qualified beneficiaries if moneys  
10 in the fund fail to offset the obligations of the board as a  
11 result of imprudent selection or supervision of investment  
12 programs by such firm. Evaluations of proposals submitted  
13 pursuant to this paragraph shall include, but not be limited  
14 to, the following criteria:

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

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

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

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

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

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

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



Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1           8. Detailed projections of administrative costs,  
2 including the amount and type of insurance coverage, and  
3 detailed projections of total costs.

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1 Evaluations of proposals submitted pursuant to this paragraph  
2 shall include, but not be limited to, the following criteria:

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

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

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

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

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

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

22 (b)2. Sue and be sued.

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

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

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1           ~~(g)7.~~ Hold, buy, and sell any instruments,  
2 obligations, securities, and property determined appropriate  
3 by the board.

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

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

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

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

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

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

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1 contract.

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

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

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

11 ~~(r)19.~~ Require that purchasers of advance payment  
12 contracts verify, under oath, any requests for contract  
13 conversions, substitutions, transfers, cancellations, refund  
14 requests, or contract changes of any nature. Verification  
15 shall be accomplished as authorized and provided for in s.  
16 92.525(1)(a).

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

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

31 (t) Endorse insurance coverage written exclusively for

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

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

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

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

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

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

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

31 ~~(g) The board shall annually prepare or cause to be~~

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

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

25 ~~(i) The board shall solicit proposals for the~~  
26 ~~marketing of the Florida Prepaid Postsecondary Education~~  
27 ~~Expense Program pursuant to s. 287.057. The entity designated~~  
28 ~~pursuant to this paragraph shall serve as a centralized~~  
29 ~~marketing agent for the program and shall be solely~~  
30 ~~responsible for the marketing of the program. Any materials~~  
31 ~~produced for the purpose of marketing the program shall be~~

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1 ~~submitted to the board for review. No such materials shall be~~  
2 ~~made available to the public before the materials are approved~~  
3 ~~by the board. Any educational institution may distribute~~  
4 ~~marketing materials produced for the program; however, all~~  
5 ~~such materials shall have been approved by the board prior to~~  
6 ~~distribution. Neither the state nor the board shall be liable~~  
7 ~~for misrepresentation of the program by a marketing agent.~~

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

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

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

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

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



Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

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

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

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

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

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

Bill No. HB 4259, 1st Eng.

Amendment No.     

1 any laboratory fees associated with enrollment in specific  
2 courses. Each qualified beneficiary shall be classified as a  
3 resident for tuition purposes pursuant to s. 240.1201,  
4 regardless of his or her actual legal residence.

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

31 (10) TRANSFER OF BENEFITS TO PRIVATE AND OUT-OF-STATE

Bill No. HB 4259, 1st Eng.

Amendment No.     

1 COLLEGES AND UNIVERSITIES.--

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

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

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

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

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1 the fund.

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

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

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

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

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

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

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

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

31 ~~(j)3.~~ The assumption of a contractual obligation by

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

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

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

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

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

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



Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

8 (13) REFUNDS.--

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

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

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

31 (d)e. If an advance payment contract is converted from

Bill No. HB 4259, 1st Eng.

Amendment No.     

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

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1 information as exempt from the provisions of s. 119.07(1).

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

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

16 ~~(e) A qualified beneficiary may apply the benefits of~~  
17 ~~an advance payment contract toward an eligible out-of-state~~  
18 ~~college or university. An out-of-state college or university~~  
19 ~~which is not for profit, is accredited by a regional~~  
20 ~~accrediting association, and which confers baccalaureate~~  
21 ~~degrees shall be eligible for such application. The board~~  
22 ~~shall transfer, or cause to have transferred, an amount not to~~  
23 ~~exceed the redemption value of the advance payment contract or~~  
24 ~~the original purchase price plus 5 percent compounded~~  
25 ~~interest, whichever is less, after assessment of a reasonable~~  
26 ~~transfer fee. In the event that the cost of registration or~~  
27 ~~housing fees charged the qualified beneficiary at the eligible~~  
28 ~~out-of-state college or university is less than this~~  
29 ~~calculated amount, the amount transferred shall not exceed the~~  
30 ~~actual cost of registration or housing fees. Any remaining~~  
31 ~~amount shall be transferred in subsequent semesters until the~~

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1 ~~transfer value is depleted. No transfer authorized pursuant~~  
2 ~~to this paragraph shall exceed the number of semester credit~~  
3 ~~hours or semesters of dormitory residence contracted on behalf~~  
4 ~~of a qualified beneficiary.~~

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

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

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

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

31 ~~3. Sufficient staff and computer capability for the~~

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1 ~~scope and level of service expected by the board.~~

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

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

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

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

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

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

31 ~~5. Adequacy of technical assistance and services~~



Bill No. HB 4259, 1st Eng.

Amendment No.     

1 ~~proposed for staff.~~

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

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

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

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

31         ~~2. The goals of the board in selecting a product~~

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1 ~~provider company shall be to provide all purchasers with the~~  
2 ~~most secure, well-diversified, and beneficially administered~~  
3 ~~postsecondary education expense plan possible, to allow all~~  
4 ~~qualified firms interested in providing such services equal~~  
5 ~~consideration, and to provide such services to the state at no~~  
6 ~~cost and to the purchasers at the lowest cost possible.~~  
7 ~~Evaluations of proposals submitted pursuant to this paragraph~~  
8 ~~shall include, but not be limited to, the following criteria:~~

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

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

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

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

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

30       (16)(10) ASSETS OF THE FUND; EXPENDITURE  
31 PRIORITY.--The assets of the fund shall be maintained,

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

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

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

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

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1 this section.

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

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

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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1 Board of Community Colleges, by March 31 each year, complete  
2 advance payment contract sales information, including  
3 projected postsecondary enrollments of qualified  
4 beneficiaries. The accounts of the fund shall be subject to  
5 annual audits by the Auditor General or his or her designee.  
6 (22) DIRECT-SUPPORT ORGANIZATION; AUTHORITY.--  
7 (a) 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

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

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

11 Section 49. Section 222.22, Florida Statutes, is  
 12 amended to read:

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

23 Section 50. Subsection (2) of section 732.402, Florida  
 24 Statutes, is amended to read:

25 732.402 Exempt property.--

26 (2) Exempt property shall consist of:

27 (a) Household furniture, furnishings, and appliances  
 28 in the decedent's usual place of abode up to a net value of  
 29 \$10,000 as of the date of death. ~~and~~

30 (b) All automobiles held in the decedent's name and  
 31 regularly used by the decedent or members of the decedent's

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1 immediate family as their personal automobiles.

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

4 Section 51. For the purpose of incorporating the  
5 amendment to s. 732.402, Florida Statutes, in references  
6 thereto, subsection (13) of section 731.201 and subsection (1)  
7 of section 735.301, Florida Statutes, are reenacted to read:

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

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

14 735.301 Disposition without administration.--

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

24  
25 (Redesignate subsequent sections.)

26  
27  
28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 On page 69, line 24, after the semicolon,

31

Bill No. HB 4259, 1st Eng.

Amendment No. \_\_\_\_

1 insert:

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

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