

By Representative Rayson

1                                    A bill to be entitled  
 2                    An act relating to postsecondary education;  
 3                    amending s. 240.551, F.S.; renaming the Florida  
 4                    Prepaid Postsecondary Education Expense  
 5                    Program, Board, and Trust Fund the Florida  
 6                    Prepaid College Program, Board, and Trust Fund,  
 7                    respectively; reordering provisions and  
 8                    providing technical revisions; deleting  
 9                    obsolete language; correcting cross references;  
 10                    permitting soliciting and contracting for  
 11                    records administration services; providing for  
 12                    the inclusion of certain fees within advance  
 13                    payment contracts for tuition; providing for  
 14                    the calculation of benefits for state  
 15                    need-based financial aid; prohibiting unlawful  
 16                    representations; amending s. 222.22, F.S.;  
 17                    conforming provisions; amending s. 732.402,  
 18                    F.S.; exempting Florida Prepaid College Program  
 19                    contracts from the probate claims of creditors;  
 20                    reenacting ss. 731.201(13) and 735.301(1),  
 21                    F.S., relating to probate, to incorporate the  
 22                    amendment to s. 732.402, F.S., in references;  
 23                    providing an effective date.

24  
 25 Be It Enacted by the Legislature of the State of Florida:

26  
 27                    Section 1.    Section 240.551, Florida Statutes, is  
 28 amended to read:  
 29                    240.551 Florida Prepaid College ~~Postsecondary~~  
 30 ~~Education Expense~~ Program.--

1           (1) LEGISLATIVE INTENT.--The Legislature recognizes  
2 that educational opportunity at the postsecondary level is a  
3 critical state interest. It further recognizes that  
4 educational opportunity is best ensured through the provision  
5 of postsecondary institutions that are geographically and  
6 financially accessible. Accordingly, it is the intent of the  
7 Legislature that a program be established through which many  
8 of the costs associated with postsecondary attendance may be  
9 paid in advance and fixed at a guaranteed level for the  
10 duration of undergraduate enrollment. It is similarly the  
11 intent of the Legislature to provide a program that fosters  
12 timely financial planning for postsecondary attendance and to  
13 encourage employer participation in such planning through  
14 program contributions on behalf of employees and the  
15 dependents of employees.

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

17           (a) "Advance payment contract" means a contract  
18 entered into by the board and a purchaser pursuant to this  
19 section.

20           (b) "Board" means the Florida Prepaid College  
21 ~~Postsecondary Education Expense~~ Board.

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

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

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

29           (f)(e) "Qualified beneficiary" means:  
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- 1           1. A resident of this state at the time a purchaser  
2 enters into an advance payment contract on behalf of the  
3 resident;
- 4           2. A nonresident who is the child of a noncustodial  
5 parent who is a resident of this state at the time that such  
6 parent enters into an advance payment contract on behalf of  
7 the child; or
- 8           3. For purposes of advance payment contracts entered  
9 into pursuant to subsection (24)~~paragraph (5)(j)~~, a graduate  
10 of an accredited high school in this state who is a resident  
11 of this state at the time he or she is designated to receive  
12 the benefits of the advance payment contract.
- 13           (g)~~(h)~~ "Registration fee" means matriculation fee,  
14 financial aid fee, building fee, and Capital Improvement Trust  
15 Fund fee.
- 16           (h)~~(f)~~ "State postsecondary institution" means any  
17 community college identified in s. 240.3031 or university  
18 identified in s. 240.2011.
- 19           (3) FLORIDA PREPAID COLLEGE PROGRAM; CREATION.--There  
20 is created a Florida Prepaid College ~~Postsecondary Education~~  
21 ~~Expense~~ Program to provide a medium through which the cost of  
22 registration and dormitory residence may be paid in advance of  
23 enrollment in a state postsecondary institution at a rate  
24 lower than the projected corresponding cost at the time of  
25 actual enrollment. Such payments shall be combined and  
26 invested in a manner that yields, at a minimum, sufficient  
27 interest to generate the difference between the prepaid amount  
28 and the cost of registration and dormitory residence at the  
29 time of actual enrollment. Students who enroll in a state  
30 postsecondary institution pursuant to this section shall be  
31

1 charged no fees in excess of the terms delineated in the  
2 advance payment contract.

3 (4) FLORIDA PREPAID COLLEGE TRUST FUND.--There is  
4 created within the State Board of Administration the Florida  
5 Prepaid College ~~Postsecondary Education Expense~~ Trust Fund.  
6 The fund shall consist of state appropriations, moneys  
7 acquired from other governmental or private sources, and  
8 moneys remitted in accordance with advance payment contracts.  
9 All funds deposited into the trust fund may be invested  
10 pursuant to s. 215.47; ~~however, such investment shall not be~~  
11 ~~mandatory~~. Dividends, interest, and gains accruing to the  
12 trust fund shall increase the total funds available for the  
13 program. Notwithstanding the provisions of chapter 717, funds  
14 associated with terminated contracts ~~terminated~~ pursuant to  
15 subsection (12)~~paragraph (6)(d)~~ and canceled contracts for  
16 which no refunds have been claimed shall increase the total  
17 funds available for the program. However, the board shall  
18 establish procedures for notifying purchasers who subsequently  
19 cancel their contracts of any unclaimed refund and shall  
20 establish a time period after which no refund may be claimed  
21 by a purchaser who canceled a contract. Any balance contained  
22 within the fund at the end of a fiscal year shall remain  
23 therein and shall be available for carrying out the purposes  
24 of the program. In the event that dividends, interest, and  
25 gains exceed ~~exceeds~~ the amount necessary for program  
26 administration and disbursements, the board may designate an  
27 additional percentage of the fund to serve as a contingency  
28 fund. Moneys contained within the fund shall be exempt from  
29 the investment requirements of s. 18.10. Any funds of a  
30 direct-support organization created pursuant to subsection  
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1 ~~(24) paragraph (5)(j)~~ shall be exempt from the provisions of  
2 this subsection ~~paragraph~~.

3 (5) PROGRAM ADMINISTRATION.--

4 (a) The Florida Prepaid College ~~Postsecondary~~  
5 ~~Education Expense~~ Program shall be administered by the Florida  
6 Prepaid College ~~Postsecondary Education Expense~~ Board as an  
7 agency of the state. The Florida Prepaid College  
8 ~~Postsecondary Education Expense~~ Board is hereby created as a  
9 body corporate with all the powers of a body corporate for the  
10 purposes delineated in this section. For the purposes of s.  
11 6, Art. IV of the State Constitution, the board shall be  
12 assigned to and administratively housed within the State Board  
13 of Administration, but it shall independently exercise the  
14 powers and duties specified in this section.

15 (b) The board shall consist of seven members to be  
16 composed of the Insurance Commissioner and Treasurer, the  
17 Comptroller, the Chancellor of the Board of Regents, the  
18 Executive Director of the State Board of Community Colleges,  
19 and three members appointed by the Governor and subject to  
20 confirmation by the Senate. Each member appointed by the  
21 Governor shall possess knowledge, skill, and experience in the  
22 areas of accounting, actuary, risk management, or investment  
23 management. Each member of the board not appointed by the  
24 Governor may name a designee to serve the board on behalf of  
25 the member; however, any designee so named shall meet the  
26 qualifications required of gubernatorial appointees to the  
27 board. Members appointed by the Governor shall serve terms of  
28 3 years ~~except that, in making the initial appointments, the~~  
29 ~~Governor shall appoint one member to serve for 1 year, one~~  
30 ~~member to serve for 2 years, and one member to serve for 3~~  
31 ~~years.~~ Any person appointed to fill a vacancy on the board

1 shall be appointed in a like manner and shall serve for only  
2 the unexpired term. Any member shall be eligible for  
3 reappointment and shall serve until a successor qualifies.  
4 Members of the board shall serve without compensation but  
5 shall be reimbursed for per diem and travel in accordance with  
6 s. 112.061. Each member of the board shall file a full and  
7 public disclosure of his or her financial interests pursuant  
8 to s. 8, Art. II of the State Constitution and corresponding  
9 statute.

10 ~~(c)(a) The Governor shall appoint a member of the~~  
11 ~~board to serve as the initial chair of the board. Thereafter,~~  
12 ~~the board shall elect a chair annually.~~ The board shall  
13 annually elect a board member to serve as chair and a board  
14 member to serve as vice chair and shall designate a  
15 secretary-treasurer who need not be a member of the board.  
16 The secretary-treasurer shall keep a record of the proceedings  
17 of the board and shall be the custodian of all printed  
18 material filed with or by the board and of its official seal.  
19 Notwithstanding the existence of vacancies on the board, a  
20 majority of the members shall constitute a quorum. The board  
21 shall take no official action in the absence of a quorum. The  
22 board shall meet, at a minimum, on a quarterly basis at the  
23 call of the chair.

24 (6) FLORIDA PREPAID COLLEGE BOARD; DUTIES.--The board  
25 shall:

26 ~~(a)(b) The board shall~~ Appoint an executive director  
27 to serve as the chief administrative and operational officer  
28 of the board and to perform other duties assigned to him or  
29 her by the board.

30 (b) Administer the fund in a manner that is  
31 sufficiently actuarially sound to defray the obligations of

1 the program. The board shall annually evaluate or cause to be  
2 evaluated the actuarial soundness of the fund. If the board  
3 perceives a need for additional assets in order to preserve  
4 actuarial soundness, the board may adjust the terms of  
5 subsequent advance payment contracts to ensure such soundness.  
6 (c) Establish a comprehensive investment plan for the  
7 purposes of this section with the approval of the State Board  
8 of Administration. The comprehensive investment plan shall  
9 specify the investment policies to be utilized by the board in  
10 its administration of the fund. The board may place assets of  
11 the fund in savings accounts or use the same to purchase fixed  
12 or variable life insurance or annuity contracts, securities,  
13 evidence of indebtedness, or other investment products  
14 pursuant to the comprehensive investment plan and in such  
15 proportions as may be designated or approved under that plan.  
16 Such insurance, annuity, savings, or investment products shall  
17 be underwritten and offered in compliance with the applicable  
18 federal and state laws, regulations, and rules by persons who  
19 are duly authorized by applicable federal and state  
20 authorities. Within the comprehensive investment plan, the  
21 board may authorize investment vehicles, or products incident  
22 thereto, as may be available or offered by qualified companies  
23 or persons. A contract purchaser may not direct the investment  
24 of his or her contribution to the trust fund and a contract  
25 beneficiary may not direct the contribution made on his or her  
26 behalf to the trust fund. Board members and employees of the  
27 board are not prohibited from purchasing advance payment  
28 contracts by virtue of their fiduciary responsibilities as  
29 members of the board or official duties as employees of the  
30 board.  
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1       (d) Solicit proposals and contract, pursuant to s.  
2 287.057, for the marketing of the Florida Prepaid College  
3 Program. The entity designated pursuant to this paragraph  
4 shall serve as a centralized marketing agent for the program  
5 and shall be solely responsible for the marketing of the  
6 program. Any materials produced for the purpose of marketing  
7 the program shall be submitted to the board for review. No  
8 such materials shall be made available to the public before  
9 the materials are approved by the board. Any educational  
10 institution may distribute marketing materials produced for  
11 the program; however, all such materials shall have been  
12 approved by the board prior to distribution. Neither the state  
13 nor the board shall be liable for misrepresentation of the  
14 program by a marketing agent.

15       (e) Solicit proposals and contract, pursuant to s.  
16 287.057, for a trustee services firm to select and supervise  
17 investment programs on behalf of the board. The goals of the  
18 board in selecting a trustee services firm shall be to obtain  
19 the highest standards of professional trustee services, to  
20 allow all qualified firms interested in providing such  
21 services equal consideration, and to provide such services to  
22 the state at no cost and to the purchasers at the lowest cost  
23 possible. The trustee services firm shall agree to meet the  
24 obligations of the board to qualified beneficiaries if moneys  
25 in the fund fail to offset the obligations of the board as a  
26 result of imprudent selection or supervision of investment  
27 programs by such firm. Evaluations of proposals submitted  
28 pursuant to this paragraph shall include, but not be limited  
29 to, the following criteria:

30           1. Adequacy of trustee services for supervision and  
31 management of the program, including current operations and



1 staff organization and commitment of management to the  
2 proposal.  
3 2. Capability to execute program responsibilities  
4 within time and regulatory constraints.  
5 3. Past experience in trustee services and current  
6 ability to maintain regular and continuous interactions with  
7 the board, records administrator, and product provider.  
8 4. The minimum purchaser participation assumed within  
9 the proposal and any additional requirements of purchasers.  
10 5. Adequacy of technical assistance and services  
11 proposed for staff.  
12 6. Adequacy of a management system for evaluating and  
13 improving overall trustee services to the program.  
14 7. Adequacy of facilities, equipment, and electronic  
15 data processing services.  
16 8. Detailed projections of administrative costs,  
17 including the amount and type of insurance coverage, and  
18 detailed projections of total costs.  
19 (f) Solicit proposals and contract, pursuant to s.  
20 287.057, for product providers to develop investment  
21 portfolios on behalf of the board to achieve the purposes of  
22 this section. Product providers shall be limited to authorized  
23 insurers as defined in s. 624.09, banks as defined in s.  
24 658.12, associations as defined in s. 665.012, authorized  
25 Securities and Exchange Commission investment advisers, and  
26 investment companies as defined in the Investment Company Act  
27 of 1940. All product providers shall have their principal  
28 place of business and corporate charter located and registered  
29 in the United States. In addition, each product provider shall  
30 agree to meet the obligations of the board to qualified  
31 beneficiaries if moneys in the fund fail to offset the

1 obligations of the board as a result of imprudent investing by  
2 such provider. Each authorized insurer shall evidence superior  
3 performance overall on an acceptable level of surety in  
4 meeting its obligations to its policyholders and other  
5 contractual obligations. Only qualified public depositories  
6 approved by the Insurance Commissioner and Treasurer shall be  
7 eligible for board consideration. Each investment company  
8 shall provide investment plans as specified within the request  
9 for proposals. The goals of the board in selecting a product  
10 provider company shall be to provide all purchasers with the  
11 most secure, well-diversified, and beneficially administered  
12 postsecondary education expense plan possible, to allow all  
13 qualified firms interested in providing such services equal  
14 consideration, and to provide such services to the state at no  
15 cost and to the purchasers at the lowest cost possible.  
16 Evaluations of proposals submitted pursuant to this paragraph  
17 shall include, but not be limited to, the following criteria:  
18       1. Fees and other costs charged to purchasers that  
19 affect account values or operational costs related to the  
20 program.  
21       2. Past and current investment performance, including  
22 investment and interest rate history, guaranteed minimum rates  
23 of interest, consistency of investment performance, and any  
24 terms and conditions under which moneys are held.  
25       3. Past experience and ability to provide timely and  
26 accurate service in the areas of records administration,  
27 benefit payments, investment management, and complaint  
28 resolution.  
29       4. Financial history and current financial strength  
30 and capital adequacy to provide products, including operating  
31 procedures and other methods of protecting program assets.

1            (7)~~(e)~~ FLORIDA PREPAID COLLEGE BOARD; POWERS.--The  
2 board shall have the powers necessary or proper to carry out  
3 the provisions of this section, including, but not limited to,  
4 the power to:

5            (a)~~1~~. Adopt an official seal and rules.  
6            (b)~~2~~. Sue and be sued.  
7            (c)~~3~~. Make and execute contracts and other necessary  
8 instruments.  
9            (d)~~4~~. Establish agreements or other transactions with  
10 federal, state, and local agencies, including state  
11 universities and community colleges.  
12            (e)~~5~~. Invest funds not required for immediate  
13 disbursement.  
14            (f)~~6~~. Appear in its own behalf before boards,  
15 commissions, or other governmental agencies.  
16            (g)~~7~~. Hold, buy, and sell any instruments,  
17 obligations, securities, and property determined appropriate  
18 by the board.  
19            (h)~~8~~. Require a reasonable length of state residence  
20 for qualified beneficiaries.  
21            (i)~~9~~. Restrict the number of participants in the  
22 community college plan, university plan, and dormitory  
23 residence plan, respectively. However, any person denied  
24 participation solely on the basis of such restriction shall be  
25 granted priority for participation during the succeeding year.  
26            (j)~~10~~. Segregate contributions and payments to the  
27 fund into various accounts and funds.  
28            (k)~~11~~. Contract for necessary goods and services,  
29 employ necessary personnel, and engage the services of private  
30 consultants, actuaries, managers, legal counsel, and auditors  
31 for administrative or technical assistance.

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

5        (m)~~13~~. Require and collect administrative fees and  
6 charges in connection with any transaction and impose  
7 reasonable penalties, including default, for delinquent  
8 payments or for entering into an advance payment contract on a  
9 fraudulent basis.

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

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

17       (p)~~16~~. Delineate the terms and conditions under which  
18 payments may be withdrawn from the fund and impose reasonable  
19 fees and charges for such withdrawal. Such terms and  
20 conditions shall be specified within the advance payment  
21 contract.

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

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

26       (r)~~19~~. Require that purchasers of advance payment  
27 contracts verify, under oath, any requests for contract  
28 conversions, substitutions, transfers, cancellations, refund  
29 requests, or contract changes of any nature. Verification  
30 shall be accomplished as authorized and provided for in s.  
31 92.525(1)(a).

1           ~~(d) The board shall administer the fund in a manner~~  
2 ~~that is sufficiently actuarially sound to defray the~~  
3 ~~obligations of the program. The board shall annually evaluate~~  
4 ~~or cause to be evaluated the actuarial soundness of the fund.~~  
5 ~~If the board perceives a need for additional assets in order~~  
6 ~~to preserve actuarial soundness, the board may adjust the~~  
7 ~~terms of subsequent advance payment contracts to ensure such~~  
8 ~~soundness.~~

9           ~~(e) The board, acting with the approval of the State~~  
10 ~~Board of Administration, shall establish a comprehensive~~  
11 ~~investment plan for the purposes of this section. The~~  
12 ~~comprehensive investment plan shall specify the investment~~  
13 ~~policies to be utilized by the board in its administration of~~  
14 ~~the fund. The board may place assets of the fund in savings~~  
15 ~~accounts or use the same to purchase fixed or variable life~~  
16 ~~insurance or annuity contracts, securities, evidence of~~  
17 ~~indebtedness, or other investment products pursuant to the~~  
18 ~~comprehensive investment plan and in such proportions as may~~  
19 ~~be designated or approved under that plan. Such insurance,~~  
20 ~~annuity, savings, or investment products shall be underwritten~~  
21 ~~and offered in compliance with the applicable federal and~~  
22 ~~state laws, regulations, and rules by persons who are duly~~  
23 ~~authorized by applicable federal and state authorities.~~  
24 ~~Within the comprehensive investment plan, the board may~~  
25 ~~authorize investment vehicles, or products incident thereto,~~  
26 ~~as may be available or offered by qualified companies or~~  
27 ~~persons. A contract purchaser may not direct the investment of~~  
28 ~~his or her contribution to the trust fund, and a contract~~  
29 ~~beneficiary may not direct the contribution made on his or her~~  
30 ~~behalf to the trust fund. Board members and employees of the~~  
31 ~~board are not prohibited from purchasing advance payment~~

1 ~~contracts by virtue of their fiduciary responsibilities as~~  
2 ~~members of the board or official duties as employees of the~~  
3 ~~board.~~

4 (s)(f) ~~The board may~~ Delegate responsibility for  
5 administration of the comprehensive investment plan required  
6 in paragraph (6)(c)(e) to a person the board determines to be  
7 qualified. Such person shall be compensated by the board.  
8 Directly or through such person, the board may contract with a  
9 private corporation or institution to provide such services as  
10 may be a part of the comprehensive investment plan or as may  
11 be deemed necessary or proper by the board or such person,  
12 including, but not limited to, providing consolidated billing,  
13 individual and collective recordkeeping and accountings, and  
14 asset purchase, control, and safekeeping.

15 (t) Endorse insurance coverage written exclusively for  
16 the purpose of protecting advance payment contracts, and the  
17 purchasers and beneficiaries thereof, which may be issued in  
18 the form of a group life policy and which is exempt from the  
19 provisions of part V of chapter 627.

20 (u) Solicit proposals and contract, pursuant to s.  
21 287.057, for the services of a records administrator. The  
22 goals of the board in selecting a records administrator shall  
23 be to provide all purchasers with the most secure,  
24 well-diversified, and beneficially administered postsecondary  
25 education expense plan possible, to allow all qualified firms  
26 interested in providing such services equal consideration, and  
27 to provide such services to the state at no cost and to the  
28 purchasers at the lowest cost possible. Evaluations of  
29 proposals submitted pursuant to this paragraph shall include,  
30 but not be limited to, the following criteria:  
31

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

4           2. Past experience in records administration and  
5 current ability to provide timely and accurate service in the  
6 areas of records administration, audit and reconciliation,  
7 plan communication, participant service, and complaint  
8 resolution.

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

11           4. Financial history and current financial strength  
12 and capital adequacy to provide administrative services  
13 required by the board.

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

16           ~~(g) The board shall annually prepare or cause to be~~  
17 ~~prepared a report setting forth in appropriate detail an~~  
18 ~~accounting of the fund and a description of the financial~~  
19 ~~condition of the program at the close of each fiscal year.~~  
20 ~~Such report shall be submitted to the President of the Senate,~~  
21 ~~the Speaker of the House of Representatives, and members of~~  
22 ~~the State Board of Education on or before March 31 each year.~~  
23 ~~In addition, the board shall make the report available to~~  
24 ~~purchasers of advance payment contracts. The board shall~~  
25 ~~provide to the Board of Regents and the State Board of~~  
26 ~~Community Colleges by March 31 each year complete advance~~  
27 ~~payment contract sales information including projected~~  
28 ~~postsecondary enrollments of qualified beneficiaries. The~~  
29 ~~accounts of the fund shall be subject to annual audits by the~~  
30 ~~Auditor General or his or her designee.~~

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1           (8)(h) QUALIFIED STATE TUITION PROGRAM  
2 STATUS.--Notwithstanding any other provision of this section,  
3 the board may adopt rules necessary to enable the program to  
4 retain its status as a "qualified state tuition ~~prepaid~~  
5 program" in order to maintain its tax exempt status or other  
6 similar status of the program, purchasers, and qualified  
7 beneficiaries under the Internal Revenue Code of 1986, as  
8 defined in s. 220.03(1). The board shall inform purchasers of  
9 changes to the tax or securities status of contracts purchased  
10 through the program.

11           ~~(i) The board shall solicit proposals for the~~  
12 ~~marketing of the Florida Prepaid Postsecondary Education~~  
13 ~~Expense Program pursuant to s. 287.057. The entity designated~~  
14 ~~pursuant to this paragraph shall serve as a centralized~~  
15 ~~marketing agent for the program and shall be solely~~  
16 ~~responsible for the marketing of the program. Any materials~~  
17 ~~produced for the purpose of marketing the program shall be~~  
18 ~~submitted to the board for review. No such materials shall be~~  
19 ~~made available to the public before the materials are approved~~  
20 ~~by the board. Any educational institution may distribute~~  
21 ~~marketing materials produced for the program; however, all~~  
22 ~~such materials shall have been approved by the board prior to~~  
23 ~~distribution. Neither the state nor the board shall be liable~~  
24 ~~for misrepresentation of the program by a marketing agent.~~

25           ~~(j) The board may establish a direct support~~  
26 ~~organization which is:~~

27           ~~1. A Florida corporation, not for profit, incorporated~~  
28 ~~under the provisions of chapter 617 and approved by the~~  
29 ~~Secretary of State.~~

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

4           ~~3. An organization which the board, after review, has~~  
5 ~~certified to be operating in a manner consistent with the~~  
6 ~~goals of the program and in the best interests of the state.~~  
7 ~~Unless so certified, the organization may not use the name of~~  
8 ~~the program.~~

9           ~~4. Subject to an annual postaudit by an independent~~  
10 ~~certified public accountant in accordance with rules~~  
11 ~~promulgated by the board. The annual audit shall be submitted~~  
12 ~~to the State Board of Administration and the Auditor General~~  
13 ~~for review. The State Board of Administration and Auditor~~  
14 ~~General shall have the authority to require and receive from~~  
15 ~~the organization or its independent auditor any detail or~~  
16 ~~supplemental data relative to the operation of the~~  
17 ~~organization. The identity of donors who desire to remain~~  
18 ~~anonymous shall be confidential and exempt from the provisions~~  
19 ~~of s. 119.07(1) and s. 24(a), Art. I of the State~~  
20 ~~Constitution, and such anonymity shall be maintained in the~~  
21 ~~auditor's report. Information received by the organization~~  
22 ~~that is otherwise confidential or exempt by law shall retain~~  
23 ~~such status. Any sensitive, personal information regarding~~  
24 ~~contract beneficiaries, including their identities, is exempt~~  
25 ~~from the provisions of s. 119.07(1) and s. 24(a), Art. I of~~  
26 ~~the State Constitution.~~

27  
28 ~~The chair of the board and the executive director shall be~~  
29 ~~directors of the direct-support organization and shall jointly~~  
30 ~~name three other individuals to serve as directors of the~~  
31 ~~organization.~~

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

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

11       (a)1. Through the community college plan, the advance  
12 payment contract shall provide prepaid registration fees for a  
13 specified number of undergraduate semester credit hours not to  
14 exceed the average number of hours required for the conference  
15 of an associate degree. The cost of participation in the  
16 community college plan shall be based primarily on the average  
17 current and projected registration fees within the State  
18 Community College System and the number of years expected to  
19 elapse between the purchase of the plan on behalf of a  
20 qualified beneficiary and the exercise of the benefits  
21 provided in the plan by such beneficiary. Qualified  
22 beneficiaries shall bear the cost of any laboratory fees  
23 associated with enrollment in specific courses. Each qualified  
24 beneficiary shall be classified as a resident for tuition  
25 purposes, pursuant to s. 240.1201, regardless of his or her  
26 actual legal residence.

27       2. Effective July 1, 1998, the board may provide  
28 advance payment contracts for additional fees delineated in s.  
29 240.35, not to exceed the average number of hours required for  
30 the conference of an associate degree, in conjunction with  
31 advance payment contracts for registration fees. The cost of

1 purchasing such fees shall be based primarily on the average  
2 current and projected fees within the State Community College  
3 System and the number of years expected to elapse between the  
4 purchase of the plan on behalf of the beneficiary and the  
5 exercise of benefits provided in the plan by such beneficiary.  
6 Community college plan contracts purchased prior to July 1,  
7 1998, shall be limited to the payment of registration fees as  
8 defined in subsection (2).

9 (b)1. Through the university plan, the advance payment  
10 contract shall provide prepaid registration fees for a  
11 specified number of undergraduate semester credit hours not to  
12 exceed the average number of hours required for the conference  
13 of a baccalaureate degree. The cost of participation in the  
14 university plan shall be based primarily on the current and  
15 projected registration fees within the State University System  
16 and the number of years expected to elapse between the  
17 purchase of the plan on behalf of a qualified beneficiary and  
18 the exercise of the benefits provided in the plan by such  
19 beneficiary. Qualified beneficiaries shall bear the cost of  
20 any laboratory fees associated with enrollment in specific  
21 courses. Each qualified beneficiary shall be classified as a  
22 resident for tuition purposes pursuant to s. 240.1201,  
23 regardless of his or her actual legal residence.

24 2. Effective July 1, 1998, the board may provide  
25 advance payment contracts for additional fees delineated in s.  
26 240.235(1), for a specified number of undergraduate semester  
27 credit hours not to exceed the average number of hours  
28 required for the conference of a baccalaureate degree, in  
29 conjunction with advance payment contracts for registration  
30 fees. Such contracts shall provide prepaid coverage for the  
31 sum of such fees, to a maximum of 45 percent of the cost of

1 registration fees. The costs of purchasing such fees shall be  
2 based primarily on the average current and projected cost of  
3 these fees within the State University System and the number  
4 of years expected to elapse between the purchase of the plan  
5 on behalf of the qualified beneficiary and the exercise of the  
6 benefits provided in the plan by such beneficiary. University  
7 plan contracts purchased prior to July 1, 1998, shall be  
8 limited to the payment of registration fees as defined in  
9 subsection (2).

10 (c) Through the dormitory residence plan, the advance  
11 payment contract may provide prepaid housing fees for a  
12 maximum of 10 semesters of full-time undergraduate enrollment  
13 in a state university. Dormitory residence plans shall be  
14 purchased in increments of 2 semesters. The cost of  
15 participation in the dormitory residence plan shall be based  
16 primarily on the average current and projected housing fees  
17 within the State University System and the number of years  
18 expected to elapse between the purchase of the plan on behalf  
19 of a qualified beneficiary and the exercise of the benefits  
20 provided in the plan by such beneficiary. Qualified  
21 beneficiaries shall have the highest priority in the  
22 assignment of housing within university residence halls.  
23 Qualified beneficiaries shall bear the cost of any additional  
24 elective charges such as laundry service or long-distance  
25 telephone service. Each state university may specify the  
26 residence halls or other university-held residences eligible  
27 for inclusion in the plan. In addition, any state university  
28 may request immediate termination of a dormitory residence  
29 contract based on a violation or multiple violations of rules  
30 of the residence hall or other university-held residences. In  
31 the event that sufficient housing is not available for all

1 qualified beneficiaries, the board shall refund the purchaser  
2 or qualified beneficiary an amount equal to the fees charged  
3 for dormitory residence during that semester. If a qualified  
4 beneficiary fails to be admitted to a state university or  
5 chooses to attend a community college that operates one or  
6 more dormitories or residency opportunities, or has one or  
7 more dormitories or residency opportunities operated by the  
8 community college direct-support organization, the qualified  
9 beneficiary may transfer or cause to have transferred to the  
10 community college, or community college direct-support  
11 organization, the fees associated with dormitory residence.  
12 Dormitory fees transferred to the community college or  
13 community college direct-support organization may not exceed  
14 the maximum fees charged for state university dormitory  
15 residence for the purposes of this section, or the fees  
16 charged for community college or community college  
17 direct-support organization dormitories or residency  
18 opportunities, whichever is less.

19 (10) TRANSFER OF BENEFITS TO PRIVATE AND OUT-OF-STATE  
20 COLLEGES AND UNIVERSITIES.--

21 (a) A qualified beneficiary may apply a community  
22 college plan, university plan, or dormitory residence plan  
23 toward any eligible independent college or university. An  
24 independent college or university which is located and  
25 chartered in Florida, is not for profit, is accredited by the  
26 Commission on Colleges of the Southern Association of Colleges  
27 and Schools or the Accrediting Commission of the Association  
28 of Independent Colleges and Schools, and which confers degrees  
29 as defined in s. 246.021, shall be eligible for such  
30 application. The board shall transfer, or cause to have  
31 transferred, to the eligible independent college or university

1 designated by the qualified beneficiary an amount not to  
2 exceed the redemption value of the advance payment contract  
3 within a state postsecondary institution. In the event that  
4 the cost of registration or housing fees at the independent  
5 college or university is less than the corresponding fees at a  
6 state postsecondary institution, the amount transferred shall  
7 not exceed the actual cost of registration or housing fees. No  
8 transfer authorized pursuant to this paragraph shall exceed  
9 the number of semester credit hours or semesters of dormitory  
10 residence contracted on behalf of a qualified beneficiary.

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

31

1            (11)~~(6)(a)~~ ADVANCE PAYMENT CONTRACTS; CONTENTS.--The  
2 board shall construct advance payment contracts for  
3 registration and may construct advance payment contracts for  
4 dormitory residence as provided in accordance with the  
5 ~~provisions of this section.~~ Advance payment contracts  
6 constructed for the purposes of this section shall be exempt  
7 from ~~the provisions of chapter 517 and the Florida Insurance~~  
8 ~~Code. The board may request assistance from the Department of~~  
9 ~~Legal Affairs in the development of the advance payment~~  
10 ~~contracts. The contents of both Such contracts shall include,~~  
11 but not be limited to, the following:

12            (a)~~1.~~ The amount of the payment or payments and the  
13 number of payments required from a purchaser on behalf of a  
14 qualified beneficiary.

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

18            (c)~~3.~~ Provisions for late payment charges and for  
19 default.

20            (d)~~4.~~ Provisions for penalty fees for withdrawals from  
21 the fund.

22            (e)~~5.~~ Except for an advance payment contract entered  
23 into pursuant to subsection (24)~~paragraph (5)(j)~~, the name  
24 and date of birth of the qualified beneficiary on whose behalf  
25 the contract is drawn and the terms and conditions under which  
26 another person may be substituted as the qualified  
27 beneficiary.

28            (f)~~6.~~ The name of any person who may terminate the  
29 contract. The terms of the contract shall specify whether the  
30 contract may be terminated by the purchaser, the qualified  
31

1 beneficiary, a specific designated person, or any combination  
2 of these persons.

3 (g)7. The terms and conditions under which a contract  
4 may be terminated, modified, or converted, the name of the  
5 person entitled to any refund due as a result of termination  
6 of the contract pursuant to such terms and conditions, and the  
7 amount of refund, if any, due to the person so named.

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

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

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

16 (h)1. The number of semester credit hours or semesters  
17 of dormitory residence contracted by the purchaser.

18 (i)2. The state postsecondary system toward which the  
19 contracted credit hours or semesters of dormitory residence  
20 will be applied.

21 (j)3. The assumption of a contractual obligation by  
22 the board to the qualified beneficiary to provide for a  
23 specified number of semester credit hours of undergraduate  
24 instruction at a state postsecondary institution, not to  
25 exceed the average number of credit hours required for the  
26 conference of the degree that corresponds to the plan  
27 purchased on behalf of the qualified beneficiary or to provide  
28 for a specified number of semesters of dormitory residence,  
29 not to exceed the number of semesters of full-time enrollment  
30 required for the conference of a baccalaureate degree.

31



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

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

6           ~~1. The number of semesters of dormitory residence~~  
7 ~~contracted by the purchaser.~~

8           ~~2. The assumption of a contractual obligation by the~~  
9 ~~board to the qualified beneficiary to provide for a specified~~  
10 ~~number of semesters of dormitory residence at a state~~  
11 ~~university, not to exceed the maximum number of semesters of~~  
12 ~~full-time enrollment required for the conference of a~~  
13 ~~baccalaureate degree.~~

14           (12)(d) DURATION OF BENEFITS; ADVANCE PAYMENT

15 CONTRACT.--An advance payment contract may provide that  
16 contracts which have not been terminated or the benefits  
17 exercised within a specified period of time shall be  
18 considered terminated. Time expended by a qualified  
19 beneficiary as an active duty member of any of the armed  
20 services of the United States shall be added to the period of  
21 time specified pursuant to this subsection ~~paragraph~~. No  
22 purchaser or qualified beneficiary whose advance payment  
23 contract is terminated pursuant to this subsection ~~paragraph~~  
24 shall be entitled to a refund. The board shall retain any  
25 moneys paid by the purchaser for an advance payment contract  
26 that has been terminated in accordance with this subsection  
27 ~~paragraph~~. Such moneys retained by the board are exempt from  
28 chapter 717, and such retained moneys must be used by the  
29 board to further the purposes of this section.

30           (13) REFUNDS.--  
31

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

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

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

23        (d)c. If an advance payment contract is converted from  
24 one registration plan to a plan of lesser value ~~a university~~  
25 ~~plan to a community college plan or a community college plus~~  
26 ~~university plan, or is converted from a community college plus~~  
27 ~~university plan to a community college plan, the amount~~  
28 refunded shall not exceed the difference between the amount  
29 paid for the original contract and the amount that would have  
30 been paid for the contract to which the plan is converted had  
31 the converted plan been purchased under the same payment plan

1 at the time the original advance payment contract was  
2 executed.

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

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

25 ~~(7) At a minimum, the board shall make advance payment~~  
26 ~~contracts available for two independent plans to be known as~~  
27 ~~the community college plan and the university plan. The board~~  
28 ~~may also make advance payment contracts available for a~~  
29 ~~dormitory residence plan.~~

30 ~~(a) Through the community college plan, the advance~~  
31 ~~payment contract shall provide prepaid registration fees for a~~

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

15       ~~(b) Through the university plan, the advance payment~~  
16 ~~contract shall provide prepaid registration fees for a~~  
17 ~~specified number of undergraduate semester credit hours not to~~  
18 ~~exceed the average number of hours required for the conference~~  
19 ~~of a baccalaureate degree. The cost of participation in the~~  
20 ~~university plan shall be based primarily on the current and~~  
21 ~~projected registration fees within the State University System~~  
22 ~~and the number of years expected to elapse between the~~  
23 ~~purchase of the plan on behalf of a qualified beneficiary and~~  
24 ~~the exercise of the benefits provided in the plan by such~~  
25 ~~beneficiary. Qualified beneficiaries shall bear the cost of~~  
26 ~~any laboratory fees associated with enrollment in specific~~  
27 ~~courses. In the event that a qualified beneficiary fails to~~  
28 ~~be admitted to a state university or chooses to attend a~~  
29 ~~community college, the qualified beneficiary may convert the~~  
30 ~~average number of semester credit hours required for the~~  
31 ~~conference of an associate degree from a university plan to a~~

1 ~~community college plan and may retain the remaining semester~~  
2 ~~credit hours in the university plan or may request a refund~~  
3 ~~for prepaid credit hours in excess of the average number of~~  
4 ~~semester credit hours required for the conference of an~~  
5 ~~associate degree pursuant to subparagraph (6)(a)7. Each~~  
6 ~~qualified beneficiary shall be classified as a resident for~~  
7 ~~tuition purposes pursuant to s. 240.1201 regardless of his or~~  
8 ~~her actual legal residence.~~

9       ~~(c) Through the dormitory residence plan, the advance~~  
10 ~~payment contract may provide prepaid housing fees for a~~  
11 ~~maximum of 10 semesters of full-time undergraduate enrollment~~  
12 ~~in a state university. Dormitory residence plans shall be~~  
13 ~~purchased in increments of 2 semesters. The cost of~~  
14 ~~participation in the dormitory residence plan shall be based~~  
15 ~~primarily on the average current and projected housing fees~~  
16 ~~within the State University System and the number of years~~  
17 ~~expected to elapse between the purchase of the plan on behalf~~  
18 ~~of a qualified beneficiary and the exercise of the benefits~~  
19 ~~provided in the plan by such beneficiary. Qualified~~  
20 ~~beneficiaries shall bear the cost of any additional elective~~  
21 ~~charges such as laundry service or long-distance telephone~~  
22 ~~service. Each state university may specify the residence~~  
23 ~~halls or other university-held residences eligible for~~  
24 ~~inclusion in the plan. In addition, any state university may~~  
25 ~~request immediate termination of a dormitory residence~~  
26 ~~contract based on a violation or multiple violations of rules~~  
27 ~~of the residence hall or other university-held residences.~~  
28 ~~Qualified beneficiaries shall have the highest priority in the~~  
29 ~~assignment of housing within university residence halls. In~~  
30 ~~the event that sufficient housing is not available for all~~  
31 ~~qualified beneficiaries, the board shall refund the purchaser~~

1 ~~or qualified beneficiary an amount equal to the fees charged~~  
2 ~~for dormitory residence during that semester. If a qualified~~  
3 ~~beneficiary fails to be admitted to a state university or~~  
4 ~~chooses to attend a community college that operates one or~~  
5 ~~more dormitories or residency opportunities, or has one or~~  
6 ~~more dormitories or residency opportunities operated by the~~  
7 ~~community college direct-support organization, the qualified~~  
8 ~~beneficiary may transfer or cause to have transferred to the~~  
9 ~~community college, or community college direct-support~~  
10 ~~organization, the fees associated with dormitory residence.~~  
11 ~~Dormitory fees transferred to the community college or~~  
12 ~~community college direct-support organization may not exceed~~  
13 ~~the maximum fees charged for state university dormitory~~  
14 ~~residence for the purposes of this section, or the fees~~  
15 ~~charged for community college or community college~~  
16 ~~direct-support organization dormitories or residency~~  
17 ~~opportunities, whichever is less.~~

18 ~~(d) A qualified beneficiary may apply a community~~  
19 ~~college plan, university plan, or dormitory residence plan~~  
20 ~~toward any eligible independent college or university. An~~  
21 ~~independent college or university which is located and~~  
22 ~~chartered in Florida, is not for profit, is accredited by the~~  
23 ~~Commission on Colleges of the Southern Association of Colleges~~  
24 ~~and Schools or the Accrediting Commission of the Association~~  
25 ~~of Independent Colleges and Schools, and which confers degrees~~  
26 ~~as defined in s. 246.021 shall be eligible for such~~  
27 ~~application. The board shall transfer or cause to have~~  
28 ~~transferred to the eligible independent college or university~~  
29 ~~designated by the qualified beneficiary an amount not to~~  
30 ~~exceed the redemption value of the advance payment contract~~  
31 ~~within a state postsecondary institution. In the event that~~

1 ~~the cost of registration or housing fees at the independent~~  
2 ~~college or university is less than the corresponding fees at a~~  
3 ~~state postsecondary institution, the amount transferred shall~~  
4 ~~not exceed the actual cost of registration or housing fees.~~  
5 ~~No transfer authorized pursuant to this paragraph shall exceed~~  
6 ~~the number of semester credit hours or semesters of dormitory~~  
7 ~~residence contracted on behalf of a qualified beneficiary.~~  
8 ~~(e) A qualified beneficiary may apply the benefits of~~  
9 ~~an advance payment contract toward an eligible out-of-state~~  
10 ~~college or university. An out-of-state college or university~~  
11 ~~which is not for profit, is accredited by a regional~~  
12 ~~accrediting association, and which confers baccalaureate~~  
13 ~~degrees shall be eligible for such application. The board~~  
14 ~~shall transfer, or cause to have transferred, an amount not to~~  
15 ~~exceed the redemption value of the advance payment contract or~~  
16 ~~the original purchase price plus 5 percent compounded~~  
17 ~~interest, whichever is less, after assessment of a reasonable~~  
18 ~~transfer fee. In the event that the cost of registration or~~  
19 ~~housing fees charged the qualified beneficiary at the eligible~~  
20 ~~out-of-state college or university is less than this~~  
21 ~~calculated amount, the amount transferred shall not exceed the~~  
22 ~~actual cost of registration or housing fees. Any remaining~~  
23 ~~amount shall be transferred in subsequent semesters until the~~  
24 ~~transfer value is depleted. No transfer authorized pursuant~~  
25 ~~to this paragraph shall exceed the number of semester credit~~  
26 ~~hours or semesters of dormitory residence contracted on behalf~~  
27 ~~of a qualified beneficiary.~~  
28 ~~(8) The board shall solicit proposals for the~~  
29 ~~operation of the Florida Prepaid Postsecondary Education~~  
30 ~~Expense Program pursuant to s. 287.057, through which the~~  
31 ~~board shall contract for the services of a records~~

1 ~~administrator, a trustee services firm, and one or more~~  
2 ~~product providers.~~

3 ~~(a) The records administrator shall be the entity~~  
4 ~~designated by the board to conduct the daily operations of the~~  
5 ~~program on behalf of the board. The goals of the board in~~  
6 ~~selecting a records administrator shall be to provide all~~  
7 ~~purchasers with the most secure, well-diversified, and~~  
8 ~~beneficially administered postsecondary education expense plan~~  
9 ~~possible, to allow all qualified firms interested in providing~~  
10 ~~such services equal consideration, and to provide such~~  
11 ~~services to the state at no cost and to the purchasers at the~~  
12 ~~lowest cost possible. Evaluations of proposals submitted~~  
13 ~~pursuant to this paragraph shall include, but not be limited~~  
14 ~~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 ~~(b) The trustee services firm shall be the entity~~  
29 ~~designated by the board to select and supervise investment~~  
30 ~~programs on behalf of the board. The goals of the board in~~  
31 ~~selecting a trustee services firm shall be to obtain the~~



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

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

16         2. ~~Capability to execute program responsibilities~~  
17 ~~within time and regulatory constraints.~~

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

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

23         5. ~~Adequacy of technical assistance and services~~  
24 ~~proposed for staff.~~

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

27         7. ~~Adequacy of facilities, equipment, and electronic~~  
28 ~~data processing services.~~

29         8. ~~Detailed projections of administrative costs,~~  
30 ~~including the amount and type of insurance coverage, and~~  
31 ~~detailed projections of total costs.~~

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

23           ~~2. The goals of the board in selecting a product~~  
24 ~~provider company shall be to provide all purchasers with the~~  
25 ~~most secure, well-diversified, and beneficially administered~~  
26 ~~postsecondary education expense plan possible, to allow all~~  
27 ~~qualified firms interested in providing such services equal~~  
28 ~~consideration, and to provide such services to the state at no~~  
29 ~~cost and to the purchasers at the lowest cost possible.~~  
30 ~~Evaluations of proposals submitted pursuant to this paragraph~~  
31 ~~shall include, but not be limited to, the following criteria:~~

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

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

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

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

15           (15)(9) OBLIGATIONS OF BOARD; PAYMENT.--The state  
16 shall agree to meet the obligations of the board to qualified  
17 beneficiaries if moneys in the fund fail to offset the  
18 obligations of the board. The Legislature shall appropriate to  
19 the Florida Prepaid College Postsecondary Education Expense  
20 Trust Fund the amount necessary to meet the obligations of the  
21 board to qualified beneficiaries.

22           (16)(10) ASSETS OF THE FUND; EXPENDITURE  
23 PRIORITY.--The assets of the fund shall be maintained,  
24 invested, and expended solely for the purposes of this section  
25 and shall not be loaned, transferred, or otherwise used by the  
26 state for any purpose other than the purposes of this section.  
27 This subsection shall not be construed to prohibit the board  
28 from investing in, by purchase or otherwise, bonds, notes, or  
29 other obligations of the state or an agency or instrumentality  
30 of the state. Unless otherwise specified by the board, assets  
31

1 of the fund shall be expended in the following order of  
2 priority:

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

5 (b) To make refunds upon termination of advance  
6 payment contracts.

7 (c) To pay the costs of program administration and  
8 operations.

9 (17) CALCULATION FOR NEED-BASED STUDENT FINANCIAL  
10 AID.--For the purposes of calculating student need for state  
11 need-based student financial aid, the value of the advance  
12 payment contract shall be prorated based on the actual  
13 benefits projected to be used within the year and shall be  
14 calculated as a resource of the family.

15 (18)(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 (19)(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.

1           ~~(20)(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           ~~(21)(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           (22) UNLAWFUL REPRESENTATION.--No person may use the  
22 phrase "Prepaid College," "Prepaid College Program," "Florida  
23 Prepaid College Program," "State Prepaid College Program," or  
24 "Florida State Prepaid College Program" or any similar phrase  
25 in the title or name of any charitable or commercial  
26 enterprise, product, or service without the written  
27 authorization of the Florida Prepaid College Board.

28           (23) ANNUAL REPORT.--The board shall annually prepare  
29 or cause to be prepared a report setting forth in appropriate  
30 detail an accounting of the fund and a description of the  
31 financial condition of the program at the close of each fiscal

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

12 (24) DIRECT-SUPPORT ORGANIZATION; AUTHORITY.--

13 (a) The board may establish a direct-support  
14 organization which is:

15 1. A Florida corporation, not for profit, incorporated  
16 under the provisions of chapter 617 and approved by the  
17 Secretary of State.

18 2. Organized and operated exclusively to receive,  
19 hold, invest, and administer property and to make expenditures  
20 to or for the benefit of the program.

21 3. An organization which the board, after review, has  
22 certified to be operating in a manner consistent with the  
23 goals of the program and in the best interests of the state.  
24 Unless so certified, the organization may not use the name of  
25 the program.

26 4. Subject to an annual postaudit by an independent  
27 certified public accountant in accordance with rules  
28 promulgated by the board. The annual audit shall be submitted  
29 to the State Board of Administration and the Auditor General  
30 for review. The State Board of Administration and Auditor  
31 General shall have the authority to require and receive from

1 the organization or its independent auditor any detail or  
2 supplemental data relative to the operation of the  
3 organization. The identity of donors who desire to remain  
4 anonymous shall be confidential and exempt from the provisions  
5 of s. 119.07(1) and s. 24(a), Art. I of the State  
6 Constitution, and such anonymity shall be maintained in the  
7 auditor's report. Information received by the organization  
8 that is otherwise confidential or exempt by law shall retain  
9 such status. Any sensitive, personal information regarding  
10 contract beneficiaries, including their identities, is exempt  
11 from the provisions of s. 119.07(1) and s. 24(a), Art. I of  
12 the State Constitution.

13 (b) The chair and the executive director of the board  
14 shall be directors of the direct-support organization and  
15 shall jointly name three other individuals to serve as  
16 directors of the organization.

17 Section 2. Section 222.22, Florida Statutes, is  
18 amended to read:

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

29 Section 3. Subsection (2) of section 732.402, Florida  
30 Statutes, is amended to read:

31 732.402 Exempt property.--

1           (2) Exempt property shall consist of:  
2           (a) Household furniture, furnishings, and appliances  
3 in the decedent's usual place of abode up to a net value of  
4 \$10,000 as of the date of death. ~~and~~

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

8           (c) Florida Prepaid College Program contracts  
9 purchased pursuant to s. 240.551.

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

14           731.201 General definitions.--Subject to additional  
15 definitions in subsequent chapters that are applicable to  
16 specific chapters or parts, and unless the context otherwise  
17 requires, in this code and chapters 737, 738, and 744:

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

20           735.301 Disposition without administration.--

21           (1) No administration shall be required or formal  
22 proceedings instituted upon the estate of a decedent leaving  
23 only personal property exempt under the provisions of s.  
24 732.402, personal property exempt from the claims of creditors  
25 under the Constitution of Florida, and nonexempt personal  
26 property the value of which does not exceed the sum of the  
27 amount of preferred funeral expenses and reasonable and  
28 necessary medical and hospital expenses of the last 60 days of  
29 the last illness.

30           Section 5. This act shall take effect July 1 of the  
31 year in which enacted.



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HOUSE SUMMARY

Renames the Florida Prepaid Postsecondary Education Expense Program, Board, and Trust Fund the Florida Prepaid College Program, Board, and Trust Fund, respectively. Reorders provisions and provides technical revisions. Permits soliciting and contracting for records administration services. Provides for the inclusion of certain fees within advance payment contracts for tuition. Provides for the calculation of benefits for state need-based financial aid. Prohibits unlawful representations. Exempts Florida Prepaid College Program contracts from the probate claims of creditors.