

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 Representative(s) Andrews and Wise offered the following:

Amendment (with title amendment)

On page 1, line 23, of the bill

insert:

Section 1. Findings and declarations.--It is declared that for the benefit of the people of the state, the increase of their commerce, welfare, and prosperity, and the improvement of their health and living conditions, it is essential that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities; that it is essential for private institutions of higher education in the state to be provided with appropriate additional means to assist such youth in achieving the required levels of learning and development of their intellectual and mental capacities; that it is the purpose of this act to provide a measure of assistance and an alternative method enabling private institutions of higher education of this state to provide the facilities and structures that are sorely needed to accomplish

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1 the purposes of this act; and that it is essential to provide
2 additional assistance to private institutions of higher
3 education by enabling those institutions to coordinate their
4 budgetary needs with the timing of receipt of tuition
5 revenues.

6 Section 2. Definitions.--As used in this act, the
7 term:

8 (1) "Authority" or "educational facilities authority"
9 means the public corporation created by this act.

10 (2) "Real property" includes all lands, including
11 improvements and fixtures thereon and any such property
12 appurtenant thereto or used in connection therewith, and every
13 estate, interest, and right, legal or equitable, therein,
14 including terms for years and liens by way of judgment,
15 mortgage, or otherwise and the indebtedness secured by such
16 liens.

17 (3) "Project" means a structure suitable for use as a
18 dormitory or other housing facility, dining hall, student
19 union, administration building, academic building, library,
20 laboratory, research facility, classroom, athletic facility,
21 health care facility, and maintenance, storage, or utility
22 facility, and other structures or facilities related thereto,
23 or required thereby, or required or useful for the instruction
24 of students, or the conducting of research, or the operation
25 of an institution of higher education, including parking and
26 other facilities or structures, essential for the orderly
27 conduct of an institution of higher education and shall also
28 include equipment and machinery and other similar items
29 necessary for the operation of a particular facility or
30 structure in the manner for which its use is intended, but the
31 term does not include such items as books, fuel, supplies, or

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1 other items that are customarily considered to result in a
2 current operating charge. The term also includes a loan in
3 anticipation of tuition revenues by a private institution of
4 higher education.

5 (4) "Cost," as applied to a project or any portion
6 thereof financed under this act, embraces all or any part of
7 the cost of construction and acquisition of all lands,
8 structures, real or personal property, rights, rights-of-way,
9 franchises, easements, and interests acquired or used for a
10 project, the cost of demolishing or removing any buildings or
11 structures on land so acquired, including the cost of
12 acquiring any lands to which the buildings or structures may
13 be removed, the cost of all machinery and equipment, financing
14 charges, interest before, during, and for a period of 30
15 months after completion of the construction, provisions for
16 working capital, reserves for principal, interest and rebate,
17 and for extensions, enlargements, additions and improvements,
18 cost of engineering, financial and legal services, plans,
19 specifications, studies, surveys, estimates of cost and of
20 revenues, administrative expenses, expenses necessary to
21 determining the feasibility or practicability of constructing
22 the project and other expenses as may be necessary to the
23 construction and acquisition of the project, the financing of
24 the construction and acquisition and the placing of the
25 project in operation. In the case of a loan in anticipation of
26 tuition revenues, the term "cost" means the amount of the loan
27 in anticipation of revenues which does not exceed the amount
28 of tuition revenues anticipated to be received by the
29 borrowing institution of higher education in the 1-year period
30 following the date of the loan, plus costs related to the
31 issuance of the loans, or bonds, the proceeds of which fund

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1 the loans, and any related cost of debt service reserve funds
2 and rebate associated therewith.

3 (5) "Bond" or "revenue bond" means a revenue bond of
4 the authority issued under this act, including a revenue
5 refunding bond, notwithstanding that it may be secured by
6 mortgage or the full faith and credit of a participating
7 institution of higher education or any other lawfully pledged
8 security of a participating institution of higher education.

9 (6) "Institution of higher education" means an
10 educational institution that by virtue of law or charter is a
11 nonprofit educational institution empowered to provide a
12 program of education beyond the high school level; is not
13 owned or controlled by the state or any political subdivision,
14 agency, instrumentality, district, or municipality of the
15 state; and otherwise meets the requirements of s. 196.012(5).

16 (7) "Participating institution" means an institution
17 of higher education that undertakes the financing and
18 construction or acquisition of a project or undertakes the
19 refunding or refinancing of obligations or of a mortgage or of
20 advances as provided in and permitted by this act.

21 (8) "Loan in anticipation of tuition revenues" means a
22 loan to an institution of higher education under circumstances
23 in which tuition revenues anticipated to be received by the
24 institution in any budget year are estimated to be
25 insufficient at any time during the budget year to pay the
26 operating expenses or other obligations of the institution in
27 accordance with the budget of the institution.

28 Section 3. Creation of Higher Educational Facilities
29 Financing Authority.--

30 (1) There is created a public body corporate and
31 politic to be known as the Higher Educational Facilities

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1 Financing Authority. The authority is constituted as a public
2 instrumentality and the exercise by the authority of the
3 powers conferred by this act is considered to be the
4 performance of an essential public function.

5 (2) The authority shall consist of five members to be
6 appointed by the Governor. One member shall be a trustee,
7 director, officer, or employee of an institution of higher
8 education. Of the members first appointed, one shall serve for
9 1 year, one for 2 years, one for 3 years, one for 4 years, and
10 one for 5 years, and in each case until his or her successor
11 is appointed and has qualified. Thereafter, the Governor shall
12 appoint for terms of 5 years each a member or members to
13 succeed those whose terms expire. The Governor shall fill any
14 vacancy for an unexpired term. A member of the authority is
15 eligible for reappointment. Any member of the authority may be
16 removed by the Governor for misfeasance, malfeasance, or
17 willful neglect of duty. Each member of the authority before
18 entering upon his or her duties shall take and subscribe to
19 the oath or affirmation required by the State Constitution. A
20 record of each oath must be filed in the office of the
21 Department of State and with the authority.

22 (3) The authority shall annually elect one of its
23 members as chair and one as vice chair, and shall also appoint
24 an executive director who is not a member of the authority and
25 who serves at the pleasure of the authority and receives
26 compensation as fixed by the authority. The duties of the
27 executive director may be discharged under a contract with the
28 Independent Colleges and Universities of Florida, a
29 not-for-profit corporation representing the independent
30 colleges and universities of the state, or any successor
31 corporation or other such entity providing similar

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1 representation, chosen by the authority, or an agency or other
2 entity representing independent colleges and universities
3 providing such services, in which case the entity shall
4 designate a person to perform those duties.

5 (4) The executive director shall keep a record of the
6 proceedings of the authority and shall be custodian of all
7 books, documents, and papers filed with the authority and of
8 the minute book or journal of the authority and of its
9 official seal. He or she may cause copies to be made of all
10 minutes and other records and documents of the authority and
11 may give certificates under the official seal of the authority
12 to the effect that the copies are true copies, and all persons
13 dealing with the authority may rely upon the certificates.

14 (5) A majority of the members of the authority
15 constitutes a quorum, and the affirmative vote of a majority
16 of the members present at a meeting of the authority is
17 necessary for any action taken by the authority. A vacancy in
18 the membership of the authority may not impair the right of a
19 quorum to exercise all the rights and perform all the duties
20 of the authority. Any action taken by the authority under this
21 act may be authorized by resolution at any regular or special
22 meeting, and each resolution shall take effect immediately and
23 need not be published or posted.

24 (6) The members of the authority shall receive no
25 compensation for the performance of their duties, but each
26 member shall be paid his or her necessary expenses incurred
27 while engaged in the performance of his or her duties.

28 (7) Notwithstanding any other law to the contrary, it
29 is not a conflict of interest for a trustee, director,
30 officer, or employee of an institution of higher education to
31 serve as a member of the authority. It is not a conflict of

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1 interest for a person having a favorable reputation for skill,
2 knowledge, and experience in state and municipal finance or
3 for a person having a favorable reputation for skill,
4 knowledge, and experience in the higher education loan finance
5 field to serve as a member of the authority. However, in each
6 case to which this act is applicable, the trustee, director,
7 officer, or employee of the participating institution shall
8 abstain from discussion, deliberation, action, and vote by the
9 authority in respect to an undertaking under this act in which
10 the participating institution of higher education represented
11 by such person has an interest; and the person having a
12 favorable reputation for skill, knowledge, and experience in
13 state and municipal finance shall abstain from discussion,
14 deliberation, action, and vote by the authority in respect to
15 a sale, purchase, or ownership of obligations of the authority
16 in which an investment banking firm, insurance company, bank
17 or other similar entity of which the person is a partner,
18 officer, or employee has or may have a current or future
19 interest; and the person having a favorable reputation for
20 skill, knowledge, and experience in the higher education loan
21 finance field shall abstain from discussion, deliberation,
22 action, and vote by the authority in respect to an action of
23 the authority in which a partnership, firm, joint venture,
24 sole proprietorship, or corporation of which the person is an
25 owner, venturer, participant, partner, officer, or employee
26 has or may have a current or future interest.

27 (8) The authority is assigned to the Department of
28 Education for administrative purposes.

29 Section 4. Powers of authority.--The purpose of the
30 authority is to assist institutions of higher education in the
31 construction, financing, and refinancing of projects

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1 throughout the state and for this purpose the authority may:

2 (1) Exercise all powers granted to corporations under
3 the Florida Business Corporation Act, chapter 607, Florida
4 Statutes.

5 (2) Have perpetual succession as a body politic and
6 corporate and adopt bylaws for the regulation of its affairs
7 and the conduct of its business.

8 (3) Adopt an official seal and alter the same at its
9 pleasure.

10 (4) Maintain an office at any place in the state that
11 it may designate.

12 (5) Sue and be sued in its own name, and plead and be
13 impleaded.

14 (6) Make and execute financing agreements, leases, as
15 lessee or as lessor, contracts, deeds, and other instruments
16 necessary or convenient in the exercise of the powers and
17 functions of the authority under this act, including contracts
18 with persons, firms, corporations, federal and state agencies,
19 and other authorities, which state agencies and other
20 authorities are hereby authorized to enter into contracts and
21 otherwise cooperate with the authority to facilitate the
22 financing, construction, leasing, or sale of any project or
23 the institution of any program; engage in sale-leaseback,
24 lease-purchase, lease-leaseback, or other undertakings and
25 provide for the sale of certificates of participation incident
26 thereto; enter into interlocal agreements in the manner
27 provided in section 163.01, Florida Statutes.

28 (7) Determine the location and character of any
29 project to be financed under this act and may:

30 (a) Construct, reconstruct, maintain, repair, operate,
31 lease as lessee or lessor, and regulate the project;

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1 (b) Enter into contracts for any of those purposes;

2 (c) Enter into contracts for the management and
3 operation of a project; and

4 (d) Designate a participating institution of higher
5 education as its agent to determine the location and character
6 of a project undertaken by a participating institution of
7 higher education under this act and, as the agent of the
8 authority, construct, reconstruct, maintain, repair, operate,
9 own, lease as lessee or lessor, and regulate the project, and,
10 as the agent of the authority, enter into contracts for any of
11 those purposes, including contracts for the management and
12 operation of the project.

13 (8) Issue bonds, bond anticipation notes, and other
14 obligations of the authority for any of its corporate
15 purposes, including the providing of funds to pay all or any
16 part of the cost of any project, and to fund or refund the
17 cost of any project as provided in this act.

18 (9) Generally fix and revise and charge and collect
19 rates, rents, fees, and charges for the use of and for the
20 services furnished or to be furnished by a project or any
21 portion thereof and to contract with any person, partnership,
22 association, or corporation or other body public or private in
23 respect thereof.

24 (10) Establish rules and regulations for the use of a
25 project or any portion thereof and designate a participating
26 institution of higher education as its agent to establish
27 rules and regulations for the use of a project undertaken by
28 the participating institution of higher education.

29 (11) Employ consulting engineers, architects,
30 attorneys, accountants, construction and financial experts,
31 superintendents, managers, and other employees and agents as

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1 may be necessary in its judgment, and fix their compensation.

2 (12) Receive and accept from any public agency loans
3 or grants for or in aid of the construction of a project or
4 any portion thereof, and receive and accept loans, grants,
5 aid, or contributions from any source of either money,
6 property, labor, or other things of value, to be held, used,
7 and applied only for the purposes for which the loans, grants,
8 aid, and contributions are made.

9 (13) Mortgage any project and the site thereof for the
10 benefit of the holders of revenue bonds issued to finance
11 projects or those providing credit for that purpose.

12 (14) Make loans to any participating institution of
13 higher education for the cost of a project, including a loan
14 in anticipation of tuition revenues, in accordance with an
15 agreement between the authority and the participating
16 institution of higher education; but no loan may exceed the
17 total cost of the project as determined by the participating
18 institution of higher education and approved by the authority.

19 (15) Make loans to a participating institution of
20 higher education to refund outstanding obligations, mortgages,
21 or advances issued, made, or given by the participating
22 institution of higher education for the cost of a project.

23 (16) Charge to and equitably apportion among
24 participating institutions of higher education its
25 administrative costs and expenses incurred in the exercise of
26 the powers and duties conferred by this act.

27 (17) Contract with an entity representing independent
28 colleges and universities as its agent to assist the authority
29 in screening applications of institutions of higher education
30 for loans under this act and receive any recommendations the
31 entity may make.

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1 (18) Do all things necessary or convenient to carry
2 out the purposes of this act.

3 Section 5. Payment of expenses.--All expenses incurred
4 in carrying out this act are payable solely from funds
5 provided under the authority of this act, and no liability or
6 obligation may be incurred by the authority beyond the extent
7 to which moneys have been provided under this act.

8 Section 6. Acquisition of real property.--The
9 authority may directly, or by and through a participating
10 institution of higher education as its agent, acquire by
11 purchase or lease solely from funds provided under this act,
12 or by gift or devise, any lands, structures, property, real or
13 personal, rights, rights-of-way, franchises, easements, and
14 other interests in lands, including lands lying underwater,
15 and riparian rights, which are located within or outside the
16 state as it may consider necessary or convenient for the
17 construction or operation of a project, upon terms and at
18 prices as are considered by it to be reasonable and that can
19 be agreed upon between it and the owner thereof, and to take
20 title thereto in the name of the authority or in the name of a
21 participating institution of higher education as its agent or
22 as an owner and borrower.

23 Section 7. Conveyance of title or interest to
24 participating institutions.--When the principal of and
25 interest on revenue bonds of the authority issued to finance
26 the cost of a particular project or projects at a
27 participating institution of higher education, including any
28 revenue refunding bonds issued to refund and refinance the
29 revenue bonds, have been fully paid and retired, or when
30 adequate provision has been made to pay fully and retire them,
31 and all other conditions of the resolution or trust agreement

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1 authorizing and securing the revenue bonds have been satisfied
2 and the lien of the resolution or trust agreement has been
3 released in accordance with the provisions thereof, the
4 authority shall promptly execute deeds and conveyances
5 necessary and required to convey title to the project or
6 projects to the participating institution of higher education,
7 free and clear of all liens and encumbrances.

8 Section 8. Criteria and requirements.--In undertaking
9 any project under this act, the authority shall be guided by
10 and shall observe the following criteria and requirements;
11 however, the determination of the authority as to compliance
12 with the criteria and requirements is final and conclusive:

13 (1) The project, in the determination of the
14 authority, is appropriate to the needs and circumstances of,
15 and shall make a significant contribution to the purposes of,
16 the authority and this act as set forth in the findings and
17 declarations, and shall serve a public purpose by advancing
18 the prosperity and general welfare of the state and its
19 people.

20 (2) A financing agreement for a project may not be
21 entered into with a participating institution that is not
22 financially responsible and fully capable of and willing to
23 fulfill its obligations under the financing agreement,
24 including the obligations to make payments in the amounts and
25 at the times required; to operate, repair, and maintain at its
26 own expense the project owned or leased; and to serve the
27 purposes of this act and any other responsibilities that may
28 be imposed under the financing agreement. In determining the
29 financial responsibility of the participating institution,
30 consideration must be given to the party's ratio of current
31 assets to current liabilities; net worth; endowments; pledges;

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1 earning trends; coverage of all fixed charges; the nature of
2 the project involved; its inherent stability; any guarantee of
3 the obligations by some other financially responsible
4 corporation, firm, or person; means by which the bonds are to
5 be marketed to the public; and other factors determinative of
6 the capability of the participating institution, financially
7 and otherwise, to fulfill its obligations consistently with
8 the purposes of this act. In making findings and
9 determinations, the authority may rely upon the
10 recommendations of the entity representing independent
11 colleges and universities.

12 (3) Adequate provision must be made for the operation,
13 repair, and maintenance of the project at the expense of the
14 owner or lessee and for the payment of principal of and
15 interest on the bonds.

16 (4) The costs to be paid from the proceeds of the
17 bonds are costs of a project within the meaning of this act,
18 except for payments included in the purposes for which revenue
19 refunding bonds may be issued under this act.

20 Section 9. Approval required to issue bonds.--The
21 authority is created for the purpose of promoting higher
22 education and issuing bonds on behalf of the state, and the
23 Governor may approve any bonds issued by the authority which
24 require approval under federal law.

25 Section 10. Agreements of sale, lease, or loan.--

26 (1) A project financed under this act may not be
27 operated by the authority or any other governmental agency,
28 except that the authority may temporarily operate or cause to
29 be operated all or any part of a project to protect its
30 interest therein, pending any leasing or sale of the project.
31 A project acquired or constructed by the authority, unless

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1 sold or contracted to be sold, must be leased to one or more
2 persons, firms, or private corporations for operation and
3 maintenance in a manner as will effectuate the purposes of
4 this act, under an agreement of sale, installment sale, lease
5 or loan, in form and substance not inconsistent herewith. Any
6 agreement may provide, among other provisions, that:

7 (a) The owner or lessee shall at its own expense
8 operate, repair, and maintain the project sold or leased
9 thereunder.

10 (b) The payments or rent payable under the agreement
11 will in the aggregate be not less than an amount sufficient to
12 pay all of the interest, principal, and redemption premiums,
13 if any, on the bonds that will be issued by the authority to
14 pay the cost of the project sold or leased thereunder.

15 (c) The owner or lessee shall pay all other costs
16 incurred by the authority in connection with the financing,
17 construction, and administration of the project sold or
18 leased, except as may be paid out of the proceeds of bonds or
19 otherwise, including, but without being limited to, insurance
20 costs, the cost of administering the bond resolution
21 authorizing the bonds and any trust agreement securing the
22 bonds, and the fees and expenses of the authority, trustees,
23 paying agents, attorneys, consultants, and others.

24 (d) The term of an agreement will terminate not
25 earlier than the date on which all bonds and all other
26 obligations incurred by the authority in connection with the
27 project sold or leased thereunder are paid in full, including
28 interest, principal, and redemption premiums, if any, or on
29 which adequate funds for payment are deposited in trust.

30 (e) The owner or lessee's obligation to pay payments
31 or rent is not subject to cancellation, termination, or

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1 abatement until payment of the bonds or provision for payment
2 is made.

3 (2) An agreement may contain additional provisions
4 that in the determination of the authority are necessary to
5 effectuate the purposes of this act, including provisions for
6 extensions of the term and renewals of the sale or the lease
7 and vesting in the lessee an option to purchase the project
8 leased thereunder pursuant to any terms and conditions
9 consistent with this act that are prescribed in the lease;
10 however, except as is otherwise expressly stated in the
11 agreement and except to provide for any contingencies
12 involving the damaging, destruction, or condemnation of the
13 project or any substantial portion thereof, an option to
14 purchase may not be exercised unless all bonds issued for the
15 project, including all principal, interest, and redemption
16 premiums, if any, and all other obligations incurred by the
17 authority in connection with the project have been paid in
18 full or sufficient funds have been deposited in trust or
19 sufficient arrangements have been made for payment. However,
20 the purchase price of the project may not be less than an
21 amount sufficient to pay in full all of the bonds, including
22 all principal, interest, and redemption premium, if any,
23 issued for the project then outstanding and all other
24 obligations incurred by the authority in connection with the
25 project.

26 Section 11. Notes of authority.--The authority may
27 issue its negotiable notes for any corporate purpose and renew
28 any notes by the issuance of new notes, whether the notes to
29 be renewed have or have not matured. The authority may issue
30 notes partly to renew notes or to discharge other obligations
31 then outstanding and partly for any other purpose. The notes

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1 may be authorized, sold, executed, and delivered in the same
2 manner as bonds. Any resolution authorizing notes of the
3 authority or any issue thereof may contain any provisions that
4 the authority is authorized to include in any resolution
5 authorizing revenue bonds of the authority or any issue
6 thereof, and the authority may include in any notes any terms,
7 covenants, or conditions that it is authorized to include in
8 any bonds. All the notes must be payable solely from the
9 revenues of the project to be financed, subject only to any
10 contractual rights of the holders of any of its notes or other
11 obligations then outstanding.

12 Section 12. Revenue bonds.--

13 (1) The authority may issue its negotiable revenue
14 bonds for any corporate purpose, including the provision of
15 funds to pay all or any part of the cost of any project. In
16 anticipation of the sale of revenue bonds, the authority may
17 issue negotiable bond anticipation notes and may renew them
18 from time to time, but the maximum maturity of any note,
19 including renewals thereof, may not exceed 5 years from the
20 date of issue of the original note. The notes must be paid
21 from any revenues of the authority available therefor or of
22 the project and not otherwise pledged, or from the proceeds of
23 sale of the revenue bonds of the authority in anticipation of
24 which they were issued. The notes must be issued in the same
25 manner as the revenue bonds. The notes and the resolution
26 authorizing them may contain any provisions, conditions, or
27 limitations that a bond resolution of the authority may
28 contain.

29 (2) The revenue bonds and notes of every issue must be
30 payable solely out of revenues of the authority, including the
31 provision of funds of the participating institution to pay all

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1 or any part of the cost of any project, subject only to any
2 agreements with the holders of particular revenue bonds or
3 notes pledging any particular revenues. Notwithstanding that
4 revenue bonds and notes may be payable from a special fund,
5 they are for all purposes negotiable instruments, subject only
6 to the provisions of the revenue bonds and notes for
7 registration.

8 (3) The revenue bonds may be issued as serial bonds or
9 as term bonds; or the authority may issue bonds of both types.
10 The revenue bonds must be authorized by resolution of the
11 authority; must bear the date of issuance, the date of
12 maturity, not exceeding 50 years from issuance, and the
13 interest rate of the bonds, which may be a variable rate,
14 notwithstanding any limitation in other laws relating to
15 maximum interest rates; must be payable at a specified time;
16 must be in specified denominations; must be in specified form,
17 carry registration privileges, be executed in a specified
18 manner, be payable in lawful money of the United States at a
19 specified place, and be subject to the terms of redemption, as
20 the resolution may provide. The revenue bonds or notes may be
21 sold at public or private sale for the price the authority
22 determines. Pending preparation of the definitive bonds, the
23 authority may issue interim receipts or certificates that may
24 be exchanged for the definitive bonds. In case any officer
25 whose signature, or a facsimile of whose signature, appears on
26 any bonds or coupons ceases to be that officer before the
27 delivery of the bonds, the signature or facsimile is
28 nevertheless valid and sufficient for all purposes as if he or
29 she had remained in office until delivery. The authority may
30 also provide for the authentication of the bonds by a trustee
31 or fiscal agent. The bonds may be issued in coupon form or in

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1 registered form, or both, as the authority may determine, and
2 provision may be made for the registration of any coupon bonds
3 as to principal alone and also as to both principal and
4 interest; for the reconversion into coupon bonds of any bonds
5 registered as to both principal and interest; and for the
6 interchange of registered and coupon bonds. The authority may
7 sell the bonds either at public or private sale, and for the
8 price it determines will best effectuate the purpose of this
9 act, notwithstanding any limitation in other laws relating to
10 the maximum interest rate permitted for bonds or limitations
11 on the manner by which bonds are sold.

12 (4) Any resolution authorizing any revenue bonds may
13 contain provisions, which are a part of the contract with the
14 holders of the revenue bonds to be authorized, as to:

15 (a) Pledging of all or any part of the revenues of a
16 project or any revenue-producing contract made by the
17 authority with any individual, partnership, corporation, or
18 association or other body, public or private, to secure the
19 payment of the revenue bonds or of any particular issue of
20 revenue bonds, subject to any agreements with bondholders as
21 may then exist.

22 (b) The rentals, fees, and other charges to be
23 charged, and the amounts to be raised in each year thereby,
24 and the use and disposition of the revenues.

25 (c) The setting aside of reserves or sinking funds and
26 the regulation and disposition thereof.

27 (d) Limitations on the right of the authority or its
28 agent to restrict and regulate the use of the project.

29 (e) Limitations on the purpose to which the proceeds
30 of sale of any issue of revenue bonds then or thereafter to be
31 issued may be applied and pledging the proceeds to secure the

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1 payment of the revenue bonds or any issue of the revenue
2 bonds.

3 (f) Limitations on the issuance of additional bonds,
4 the terms upon which additional bonds may be issued and
5 secured, and the refunding of outstanding bonds.

6 (g) The procedure, if any, by which the terms of any
7 contract with bondholders may be amended or abrogated,
8 including the amount of bonds the holders of which must
9 consent thereto and the manner in which consent may be given.

10 (h) Limitations on the amount of moneys derived from
11 the project to be expended for operating, administrative, or
12 other expenses of the authority.

13 (i) The acts or omissions to act that constitute a
14 default in the duties of the authority to holders of its
15 obligations and providing the rights and remedies of the
16 holders in the event of a default.

17 (j) The mortgaging of or granting of a security
18 interest in the project or the site thereof for the purpose of
19 securing the bondholders.

20 (5) Neither the members of the authority nor any
21 person executing the revenue bonds or notes is liable
22 personally on the revenue bonds or notes or is subject to any
23 personal liability or accountability by reason of the issuance
24 thereof.

25 (6) The authority may purchase its bonds or notes out
26 of any funds available therefor. The authority may hold,
27 pledge, cancel, or resell the bonds, subject to and in
28 accordance with agreements with bondholders.

29 (7) Incident to its powers to issue bonds and notes,
30 the authority may enter into interest rate swap agreements,
31 collars, caps, forward securities purchase agreements, delayed

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1 delivery bond purchase agreements, and any other financial
2 agreements considered to be in the best interest of the
3 authority.

4 (8) Bonds may be issued under this act without
5 obtaining, except as otherwise expressly provided in this act,
6 the consent of any department, division, commission, board,
7 body, bureau, or agency of the state or any local government,
8 and without any other proceedings or the happening of any
9 conditions or things other than those proceedings, conditions,
10 or things that are specifically required by this act and the
11 resolution authorizing the issuance of bonds or the trust
12 agreement securing them.

13 Section 13. Authority reporting requirement.--

14 (1) Any authority that issues any revenue bonds under
15 this act shall supply the Division of Bond Finance of the
16 State Board of Administration with a copy of the report
17 required in s. 103 of the Internal Revenue Code of 1954, as
18 amended, at the times required under that section.

19 (2) The Division of Bond Finance shall, upon receipt,
20 provide a copy of the information supplied under subsection
21 (1) to the Department of Education.

22 Section 14. Covenants.--Any resolution authorizing the
23 issuance of bonds may contain any covenants the authority
24 considers advisable, including those provisions set forth in
25 section 13(4), and all those covenants constitute valid and
26 legally binding and enforceable contracts between the
27 authority and the bondholders, regardless of the time of
28 issuance thereof. The covenants may include, without
29 limitation, covenants concerning the disposition of the bond
30 proceeds, the use and disposition of project revenues, the
31 pledging of revenues and assessments, the obligations of the

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1 authority with respect to the operation of the project and the
2 maintenance of adequate project revenues, the issuance of
3 additional bonds, the appointment, powers, and duties of
4 trustees and receivers, the acquisition of outstanding bonds
5 and obligations, restrictions on the establishing of competing
6 projects or facilities, restrictions on the sale or disposal
7 of the assets and property of the authority, the maintenance
8 of deposits to assure the payment of the bonds issued
9 hereunder, acceleration upon default, the execution of
10 necessary instruments, the procedure for amending or
11 abrogating covenants with the bondholders, and any other
12 covenants considered necessary for the security of the
13 bondholders.

14 Section 15. Validity of bonds; validation
15 proceedings.--Any bonds issued by the authority are
16 incontestable in the hands of bona fide purchasers or holders
17 for value and are not invalid because of any irregularity or
18 defect in the proceedings for the issue and sale thereof.
19 Before the issuance of any bonds, the authority shall publish
20 a notice at least once in a newspaper or newspapers published
21 or of general circulation in the county or counties in the
22 state in which the project will be located, stating the date
23 of adoption of the resolution authorizing the obligations, the
24 amount, maximum rate of interest, and maturity of the
25 obligations, and the purpose in general terms for which the
26 obligations are to be issued, and further stating that any
27 action or proceeding questioning the validity of the
28 obligations or of the proceedings authorizing the issuance
29 thereof, or of any covenants made therein, must be instituted
30 within 20 days after the first publication of the notice, or
31 the validity of the obligations, proceedings, and covenants

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1 may not be thereafter questioned in any court. If no action or
2 proceeding is instituted within the 20-day period, then the
3 validity of the obligations, proceedings, and covenants is
4 conclusive, and all persons or parties whatsoever are forever
5 barred from questioning the validity of the obligations,
6 proceedings, or covenants in any court. Notwithstanding this
7 section, the bonds, notes, or other obligations issued by the
8 authority and the obligations of any participating
9 institution, or others providing credit for the obligations,
10 who may be before the jurisdiction of the court, may be
11 validated in the manner provided by chapter 75, Florida
12 Statutes, and the jurisdiction of the action may be in the
13 jurisdiction of the circuit court where the project is to be
14 located, or in the discretion of the authority, in the county
15 seat of state government.

16 Section 16. Act furnishes full authority for issuance
17 of bonds.--This act constitutes full authority for the
18 issuance of bonds and the exercise of the powers of the
19 authority provided in this act. Any bonds issued by the
20 authority are not secured by the full faith and credit of the
21 state and do not constitute an obligation, either general or
22 special, of the state.

23 Section 17. Security of bondholders.--In the
24 discretion of the authority any revenue bonds issued under
25 this act may be secured by a trust agreement by and between
26 the authority and a corporate trustee or trustees, which may
27 be any trust company or bank having the powers of a trust
28 company within or without the state. The trust agreement or
29 the resolution providing for the issuance of revenue bonds may
30 pledge or assign the revenues to be received or the proceeds
31 of any contract or contracts pledged and may convey or

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1 mortgage the project or any portion thereof. The trust
2 agreement or resolution providing for the issuance of revenue
3 bonds may contain provisions for protecting and enforcing the
4 rights and remedies of the bondholders as may be reasonable
5 and proper and not in violation of law, including particularly
6 those provisions specifically authorized by this act to be
7 included in any resolution of the authority authorizing
8 revenue bonds. Any bank or trust company incorporated under
9 the laws of this state or of any other state or the United
10 States which may legally act as depository of the proceeds of
11 bonds or of revenues or other moneys or security may furnish
12 indemnifying bonds or pledge securities required by the
13 authority, if any. Any trust agreement may set forth the
14 rights and remedies of the bondholders and of the trustee or
15 trustees, and may restrict the individual right of action by
16 bondholders. In addition, any trust agreement or resolution
17 may contain any other provisions the authority may consider
18 reasonable and proper for the security of the bondholders. All
19 expenses incurred in carrying out the trust agreement or
20 resolution may be treated as a part of the cost of the
21 operation of a project.

22 Section 18. Payment of bonds.--Revenue bonds issued
23 under this act may not be considered to constitute a debt or
24 liability of the authority, any municipality, the state or any
25 political subdivision thereof or a pledge of the faith and
26 credit of the state, of the authority, of any municipality or
27 of any political subdivision, but are payable solely from
28 revenues of the authority pertaining to the project relating
29 to the issue; payments by participating institutions of higher
30 education, banks, insurance companies, or others under letters
31 of credit or purchase agreements; investment earnings from

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1 funds or accounts maintained under the bond resolution;
2 insurance proceeds; loan funding deposits; proceeds of sales
3 of education loans; proceeds of refunding obligations; and
4 fees, charges, and other revenues of the authority from the
5 project. All revenue bonds must contain on the face thereof a
6 statement to the effect that neither the authority, any
7 municipality, the state, nor any political subdivision thereof
8 is obligated to pay the bond or the interest thereon except
9 from revenues of the project or the portion thereof for which
10 they are issued, and that neither the faith and credit nor the
11 taxing power of the authority, any municipality, the state, or
12 any political subdivision thereof is pledged to the payment of
13 the principal of or the interest on the bonds. The issuance of
14 revenue bonds under this act may not directly or indirectly or
15 contingently obligate the authority, any municipality, the
16 state, or any political subdivision thereof to levy or to
17 pledge any form of taxation therefor or to make any
18 appropriation for their payment.

19 Section 19. Rates, rents, fees, and charges.--
20 (1) The authority may fix, revise, charge, and collect
21 rates, rents, fees, and charges for the use of and for the
22 services furnished or to be furnished by each project and may
23 contract with any person, partnership, association or
24 corporation, or other body, public or private, in respect
25 thereof. The rates, rents, fees, and charges must be fixed and
26 adjusted in respect of the aggregate of rates, rents, fees,
27 and charges from the project so as to provide funds sufficient
28 with other revenues, if any:

29 (a) To pay the cost of maintaining, repairing, and
30 operating the project and each portion thereof, to the extent
31 that the payment of the cost has not otherwise been adequately

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1 provided for.

2 (b) To pay the principal of and the interest on
3 outstanding revenue bonds of the authority issued in respect
4 of the project as the bonds become due and payable.

5 (c) To create and maintain reserves required or
6 provided for in any resolution authorizing, or trust agreement
7 securing, the revenue bonds of the authority. The rates,
8 rents, fees, and charges are not subject to supervision or
9 regulation by any department, commission, board, body, bureau,
10 or agency of this state other than the authority.

11 (2) A sufficient amount of the revenues derived in
12 respect of a project, except the part of the revenues
13 necessary to pay the cost of maintenance, repair, and
14 operation and to provide reserves and for renewals,
15 replacements, extensions, enlargements, and improvements
16 provided for in the resolution authorizing the issuance of any
17 revenue bonds of the authority or in the trust agreement
18 securing them must be set aside at regular intervals as
19 provided in the resolution or trust agreement in a sinking or
20 other similar fund that is hereby pledged to, and charged
21 with, the payment of the principal of and the interest on the
22 revenue bonds as they become due and the redemption price or
23 the purchase price of bonds retired by call or purchase as
24 therein provided. The pledge must be valid and binding from
25 the time when the pledge is made; the rates, rents, fees,
26 charges, and other revenues or other moneys so pledged and
27 thereafter received by the authority must immediately be
28 subject to the lien of the pledge without any physical
29 delivery thereof or further act, and the lien of any pledge is
30 valid and binding as against all parties having claims of any
31 kind in tort, contract, or otherwise against the authority,

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1 irrespective of whether the parties have notice thereof.
2 Neither the resolution nor any trust agreement by which a
3 pledge is created need be filed or recorded except in the
4 records of the authority.

5 (3) The use and disposition of moneys to the credit of
6 a sinking or other similar fund must be subject to the
7 resolution authorizing the issuance of the bonds or of the
8 trust agreement. Except as may otherwise be provided in the
9 resolution or the trust agreement, the sinking or other
10 similar fund must be a fund for all revenue bonds issued to
11 finance projects at a particular institution for higher
12 education without distinction or priority of one over another.
13 However, the authority in any resolution or trust agreement
14 may provide that the sinking or other similar fund be the fund
15 for a particular project at an institution for higher
16 education and for the revenue bonds issued to finance a
17 particular project, and may, additionally, permit and provide
18 for the issuance of revenue bonds having a subordinate lien in
19 respect of the security authorized to other revenue bonds of
20 the authority, and, in such case, the authority may create
21 separate sinking or other similar funds in respect of the
22 subordinate lien bonds.

23 Section 20. Trust funds.--All moneys received under
24 the authority of this act, whether as proceeds from the sale
25 of bonds or as revenues, are considered to be trust funds to
26 be held and applied solely as provided in this act. Any
27 officer with whom, or any bank or trust company with which,
28 the moneys are deposited shall act as trustee of the moneys
29 and shall hold and apply them for the purposes of this act,
30 subject to the regulations this act and the resolution
31 authorizing the bonds of any issue or the trust agreement

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1 securing the bonds provides.

2 Section 21. Remedies of bondholders.--Any holder of
3 revenue bonds issued under this act or any of the coupons
4 appertaining thereto, and the trustee or trustees under any
5 trust agreement, except to the extent the rights given may be
6 restricted by any resolution authorizing the issuance of, or
7 any such trust agreement securing, the bonds, may, either at
8 law or in equity, by suit, action, mandamus, or other
9 proceedings, protect and enforce any rights under the laws of
10 the state or granted hereunder or under the resolution or
11 trust agreement, and may enforce and compel the performance of
12 all duties required by this act or by the resolution or trust
13 agreement to be performed by the authority or by any officer,
14 employee, or agent thereof, including the fixing, charging,
15 and collecting of the rates, rents, fees, and charges
16 authorized and required by the provisions of the resolution or
17 trust agreement to be fixed, established, and collected.

18 Section 22. Tax exemption.--The exercise of the powers
19 granted by this act will be in all respects for the benefit of
20 the people of this state, for the increase of their commerce,
21 education, welfare, and prosperity, and for the improvement of
22 their health and living conditions, and because the operation
23 and maintenance of a project by the authority or its agent or
24 the owner or lessee thereof, as authorized in this act, will
25 constitute the performance of an essential public function:

26 (1) Neither the authority, nor its agent, is required
27 to pay any taxes or assessments upon or in respect of a
28 project or any property acquired or used by the authority or
29 its agent under the provisions of this act or upon the income
30 therefrom.

31 (2) Any bonds issued under this act; any security

1 therefor, their transfer, and the income therefrom, including
2 any profit made on the sale thereof; and all notes, mortgages,
3 security agreements, letters of credit, or other instruments
4 which arise out of or are given to secure the repayment of
5 bonds issued in connection with a project financed under this
6 part, shall at all times be free from taxation by the state or
7 any local unit, political subdivision, or other
8 instrumentality of the state.

9
10 The exemptions granted by this section are not applicable to
11 any tax imposed by chapter 220, Florida Statutes, on interest,
12 income, or profits or on debt obligations owned by
13 corporations.

14 Section 23. Refunding bonds.--

15 (1) The authority may provide for the issuance of
16 revenue bonds of the authority for the purpose of refunding
17 any revenue bonds of the authority then outstanding, including
18 the payment of any redemption premium thereon and any interest
19 accrued or to accrue to the earliest or subsequent date of
20 redemption, purchase, or maturity of the revenue bonds, and,
21 if considered advisable by the authority, for the additional
22 purpose of paying all or any part of the cost of constructing
23 and acquiring additions, improvements, extensions, or
24 enlargements of a project or any portion thereof.

25 (2) The proceeds of any revenue bonds issued for the
26 purpose of refunding outstanding revenue bonds may be applied
27 to the purchase or retirement at maturity or redemption of the
28 outstanding revenue bonds either on their earliest or any
29 subsequent redemption date or upon the purchase or at the
30 maturity thereof and may, pending the application, be placed
31 in escrow to be applied to the purchase or retirement at

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1 maturity or redemption on the date as may be determined by the
2 authority.

3 (3) Any escrowed proceeds, pending use, may be
4 invested and reinvested in direct obligations of the United
5 States of America, or in certificates of deposit or time
6 deposits secured by direct obligations of the United States,
7 or other investments as the resolution authorizing the
8 issuance and sale of the bonds, or the trust agreement, may
9 provide, maturing at the time or times as shall be appropriate
10 to assure the prompt payment, as to principal, interest, and
11 redemption premium, if any, of the outstanding revenue bonds
12 to be so refunded. The interest, income, and profits, if any,
13 earned or realized on any such investment may also be applied
14 to the payment of the outstanding revenue bonds to be so
15 refunded. After the terms of the escrow have been fully
16 satisfied and carried out, any balance of the proceeds and
17 interest, income and profits, if any, earned or realized on
18 the investments thereof may be returned to the authority or to
19 the participating institution for use by it in any lawful
20 manner.

21 (4) The portion of the proceeds of any revenue bonds
22 issued for the additional purpose of paying all or any part of
23 the cost of constructing and acquiring additions,
24 improvements, extensions, or enlargements of a project may be
25 invested and reinvested in direct obligations of the United
26 States, or in certificates of deposit or time deposits secured
27 by direct obligations of the United States, or other
28 investments as the resolution authorizing the issuance and
29 sale of the bonds, or the trust agreement, may provide,
30 maturing not later than the time or times when the proceeds
31 will be needed for the purpose of paying all or any part of

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1 the cost. The interest, income, and profits, if any, earned or
2 realized on the investment may be applied to the payment of
3 all or any part of the cost or may be used by the authority or
4 the participating institution in any lawful manner.

5 (5) All refunding revenue bonds are subject to this
6 act in the same manner and to the same extent as other revenue
7 bonds issued under this act.

8 Section 24. Legal investment.--Bonds issued by the
9 authority under this act are made securities in which all
10 public officers and public bodies of the state and its
11 political subdivisions, all insurance companies, trust
12 companies, banking associations, investment companies,
13 executors, administrators, trustees, and other fiduciaries may
14 properly and legally invest funds, including capital in their
15 control or belonging to them. The bonds are made securities
16 that may properly and legally be deposited with and received
17 by any state or municipal officer or any agency or political
18 subdivision of the state for any purpose for which the deposit
19 of bonds or obligations of the state is now or may hereafter
20 be authorized by law.

21 Section 25. Reports.--Within the first 90 days of each
22 calendar year, the authority shall make a report to the
23 Department of Education of its activities for the preceding
24 calendar year. Each report must set forth a complete operating
25 and financial statement covering its operations during the
26 year. The authority shall cause an audit of its books and
27 accounts to be made at least once each year by a certified
28 public accountant and the cost of the audit shall be paid by
29 the authority from funds available to it under this act.

30 Section 26. State agreement.--The state agrees with
31 the holders of any obligations issued under this act, and with

1 those parties who may enter into contracts with the authority
2 under this act, that the state will not limit or alter the
3 rights vested in the authority until the obligations, together
4 with the interest thereon, are fully met and discharged and
5 the contracts are fully performed on the part of the
6 authority. However, this act does not preclude any limitation
7 or alteration if adequate provision is made by law for the
8 protection of the holders of the obligations of the authority
9 or those entering into contracts with the authority. The
10 authority is authorized to include this pledge and undertaking
11 for the state in any obligations or contracts.

12 Section 27. Alternative means.--This act provides an
13 additional and alternative method for the doing of the things
14 authorized, and shall be regarded as supplemental and
15 additional to powers conferred by other laws; but the issuance
16 of notes, certificates of participation, revenue bonds, and
17 revenue refunding bonds under this act need not comply with
18 the requirements of any other law applicable to the issuance
19 of bonds or such obligations. Except as otherwise expressly
20 provided in this act, the powers granted to the authority
21 under this act are not subject to the supervision or
22 regulation of, or require the approval or consent of, any
23 municipality or political subdivision or any commission,
24 board, body, bureau, official, or agency thereof or of the
25 state.

26 Section 28. Liberal construction.--This act shall be
27 liberally construed to effectively carry out its purposes.

28 Section 29. Act controlling.--To the extent that this
29 act is inconsistent with any general statute or special act or
30 parts thereof, this act controls.

31

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

2 And the title is amended as follows:

3 On page 1, line 2, after the semicolon

4

5 insert:

6 providing findings and declarations; creating
7 the Higher Educational Facilities Financing
8 Authority; providing for its powers; providing
9 for criteria for and covenants relating to the
10 authorization of the issuance of notes and
11 revenue bonds not obligating the full faith and
12 credit of the authority, any municipality, the
13 state, or any political subdivision thereof;
14 providing for loans from revenue bonds to
15 participating institutions; providing for the
16 validation of revenue bonds; providing for
17 trust funds and remedies of bondholders;
18 providing for a tax exemption; providing for
19 agreement of the state; providing other powers
20 and authorities incident thereto; requiring
21 reports and audits;

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