

By Senators Lee and Laurent

23-83-00

1                                   A bill to be entitled  
 2           An act relating to postsecondary education;  
 3           amending s. 240.551, F.S.; providing for the  
 4           transfer of Florida Prepaid College Program  
 5           benefits to certain applied technology diploma  
 6           programs and vocational certificate programs;  
 7           requiring the direct-support organization to  
 8           operate under written contract with the board;  
 9           providing contract requirements; requiring an  
 10          annual financial and compliance audit; allowing  
 11          the Florida Prepaid College Board to permit  
 12          direct-support organizations established under  
 13          this section to use the property, facilities,  
 14          and personal services of the board; providing  
 15          for such direct-support organizations to invest  
 16          funds with the moneys invested under the  
 17          Florida Prepaid College Trust Fund; providing  
 18          an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22           Section 1. Subsections (10) and (22) of section  
 23 240.551, Florida Statutes, are amended to read:

24           240.551 Florida Prepaid College Program.--

25           (10) TRANSFER OF BENEFITS TO PRIVATE AND OUT-OF-STATE  
 26 COLLEGES AND UNIVERSITIES AND TO AREA TECHNICAL CENTERS.--A  
 27 qualified beneficiary may apply the benefits of an advance  
 28 payment contract toward:

29           (a) ~~A qualified beneficiary may apply a community~~  
 30 ~~college plan, university plan, or dormitory residence plan~~  
 31 ~~toward~~ Any eligible independent college or university. An

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

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

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

10 (c) An applied technology diploma program or  
11 vocational certificate program conducted by a community  
12 college listed in s. 240.3031 or an area technical center  
13 operated by a district school board. The board shall transfer  
14 or cause to be transferred to the community college or area  
15 technical center designated by the qualified beneficiary an  
16 amount not to exceed the redemption value of the advance  
17 payment contract within a state postsecondary institution. If  
18 the cost of the fees charged by the college or center, as  
19 authorized in s. 239.117, is less than the corresponding fees  
20 at a state postsecondary institution, the amount transferred  
21 may not exceed the actual cost of the fees. A transfer  
22 authorized under this paragraph may not exceed the number of  
23 semester credit hours contracted on behalf of a qualified  
24 beneficiary.

25  
26 Notwithstanding any other provision in this section, an  
27 institution must be an "eligible educational institution"  
28 under section 529 of the Internal Revenue Code to be eligible  
29 for the transfer of advance payment contract benefits.

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

1 (a) The board may establish a direct-support  
2 organization which is:

3 1. A Florida corporation, not for profit, incorporated  
4 under the provisions of chapter 617 and approved by the  
5 Secretary of State.

6 2. Organized and operated exclusively to receive,  
7 hold, invest, and administer property and to make expenditures  
8 to or for the benefit of the program.

9 3. An organization which the board, after review, has  
10 certified to be operating in a manner consistent with the  
11 goals of the program and in the best interests of the state.  
12 Unless so certified, the organization may not use the name of  
13 the program.

14 ~~4. Subject to an annual postaudit by an independent~~  
15 ~~certified public accountant in accordance with rules~~  
16 ~~promulgated by the board. The annual audit shall be submitted~~  
17 ~~to the State Board of Administration and the Auditor General~~  
18 ~~for review. The State Board of Administration and Auditor~~  
19 ~~General shall have the authority to require and receive from~~  
20 ~~the organization or its independent auditor any detail or~~  
21 ~~supplemental data relative to the operation of the~~  
22 ~~organization.~~

23 (b) The direct-support organization shall operate  
24 under written contract with the board. The contract must  
25 provide for:

26 1. Approval of the articles of incorporation and  
27 bylaws of the direct-support organization by the board.

28 2. Submission of an annual budget for the approval of  
29 the board. The budget must comply with rules adopted by the  
30 board.

31

1           3. An annual financial and compliance audit of its  
2 financial accounts and records by an independent certified  
3 public accountant in accordance with rules adopted by the  
4 board.

5           4. Certification by the board that the direct-support  
6 organization is complying with the terms of the contract and  
7 in a manner consistent with the goals and purposes of the  
8 board and in the best interest of the state. Such  
9 certification must be made annually and reported in the  
10 official minutes of a meeting of the board.

11           5. The reversion to the board, or to the state if the  
12 board ceases to exist, of moneys and property held in trust by  
13 the direct-support organization for the benefit of the board  
14 or program if the direct-support organization is no longer  
15 approved to operate for the board or if the board ceases to  
16 exist.

17           6. The fiscal year of the direct-support organization,  
18 which must begin July 1 of each year and end June 30 of the  
19 following year.

20           7. The disclosure of material provisions of the  
21 contract and of the distinction between the board and the  
22 direct-support organization to donors of gifts, contributions,  
23 or bequests, and such disclosure on all promotional and  
24 fundraising publications.

25           (c) An annual financial and compliance audit of the  
26 financial accounts and records of the direct-support  
27 organization must be performed by an independent certified  
28 public accountant. The audit must be submitted to the board  
29 for review and approval. Upon approval, the board shall  
30 certify the audit report to the Auditor General for review.  
31 The board and Auditor General shall have the authority to

1 require and receive from the organization or its independent  
2 auditor any detail or supplemental data relative to the  
3 operation of the organization.

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

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

18 (f) The board may authorize the direct-support  
19 organization established in this subsection to use program  
20 property, except money, and use facilities and personal  
21 services subject to the provisions of this section. If the  
22 direct-support organization does not provide equal employment  
23 opportunities to all persons regardless of race, color,  
24 religion, sex, age, or national origin, it may not use the  
25 property, facilities, or personal services of the board. For  
26 the purposes of this subsection, the term "personal services"  
27 includes full-time personnel and part-time personnel as well  
28 as payroll processing as prescribed by rule of the board. The  
29 board shall adopt rules prescribing the procedures by which  
30 the direct-support organization is governed and any conditions

31

1 with which such a direct-support organization must comply to  
2 use property, facilities, or personal services of the board.

3 (g) The board may invest funds of the direct-support  
4 organization which have been allocated for the purchase of  
5 advance payment contracts for scholarships with receipts for  
6 advance payment contracts.

7 Section 2. This act shall take effect July 1, 2000.

8  
9 \*\*\*\*\*

10 SENATE SUMMARY

11 Allows benefits under the Florida Prepaid College Program  
12 to be transferred to certain applied technology diploma  
13 programs and vocational certificate programs. Requires  
14 the direct-support organization to operate under written  
15 contract with the Florida Prepaid College Board. Provides  
16 contract requirements. Requires an annual financial and  
17 compliance audit of the accounts and records of  
18 direct-support organizations. Allows the Florida Prepaid  
19 College Board to permit direct-support organizations  
20 established under s. 240.551, F.S., to use the property,  
21 facilities, and personal services of the board. Allows  
22 such direct-support organizations to invest funds with  
23 the moneys invested under the Florida Prepaid College  
24 Trust Fund.  
25  
26  
27  
28  
29  
30  
31