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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; amending s.
18 240.553(20), F.S.; modifying the type of legal
19 counsel required prior to implementing the
20 program; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsections (10) and (22) of section
25 240.551, Florida Statutes, are amended to read:
26 240.551 Florida Prepaid College Program.--
27 (10) TRANSFER OF BENEFITS TO PRIVATE AND OUT-OF-STATE
28 COLLEGES AND UNIVERSITIES AND TO AREA TECHNICAL CENTERS.--A
29 qualified beneficiary may apply the benefits of an advance
30 payment contract toward:

31

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

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

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

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

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

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

4 (a) The board may establish a direct-support
5 organization which is:

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

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

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

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

26 (b) The direct-support organization shall operate
27 under written contract with the board. The contract must
28 provide for:

29 1. Approval of the articles of incorporation and
30 bylaws of the direct-support organization by the board.

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1 2. Submission of an annual budget for the approval of
2 the board. The budget must comply with rules adopted by the
3 board.

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

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

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

20 6. The fiscal year of the direct-support organization,
21 which must begin July 1 of each year and end June 30 of the
22 following year.

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

28 (c) An annual financial and compliance audit of the
29 financial accounts and records of the direct-support
30 organization must be performed by an independent certified
31 public accountant. The audit must be submitted to the board

1 for review and approval. Upon approval, the board shall
2 certify the audit report to the Auditor General for review.
3 The board and Auditor General shall have the authority to
4 require and receive from the organization or its independent
5 auditor any detail or supplemental data relative to the
6 operation of the organization.

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

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

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

1 board shall adopt rules prescribing the procedures by which
2 the direct-support organization is governed and any conditions
3 with which such a direct-support organization must comply to
4 use property, facilities, or personal services of the board.

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

9 Section 2. Subsection (20) of section 240.553, Florida
10 Statutes, is amended to read:

11 240.553 Florida College Savings Program.--

12 (20) PROGRAM IMPLEMENTATION

13 RESTRICTIONS.--Implementation of the program may not begin
14 until the board has received the following:

15 (a) A ~~favorable~~ written ~~and unqualified~~ opinion from
16 counsel specializing in federal tax matters indicating that
17 the program constitutes a qualified state tuition program
18 under s. 529 of the Internal Revenue Code;

19 (b) A written ~~and unqualified~~ opinion from a qualified
20 member of the United States Patent Bar indicating that the
21 implementation of the program or the operation of the program
22 will not knowingly infringe upon any patent or copyright
23 specifically related to the financing of higher education
24 expenses;

25 (c) A written ~~and unqualified~~ opinion of qualified
26 counsel specializing in federal securities law that the
27 program and the offering of participation in the program does
28 are not violate subject to federal securities law; and

29 (d) A written ~~and unqualified~~ opinion from the board's
30 litigation counsel indicating that the implementation or
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1 operation of the program will not adversely impact any pending
2 litigation against the board.

3 Section 3. This act shall take effect July 1, 2000.
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