

721-116AX-38

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

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

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Representative(s) J. Miller offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

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

240.551 Florida Prepaid College Program.--

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

(a) ~~A qualified beneficiary may apply a community
college plan, university plan, or dormitory residence plan
toward~~ Any eligible independent college or university. An
independent college or university ~~that which~~ is located and
chartered in Florida, that is not for profit, that is
accredited by the Commission on Colleges of the Southern
Association of Colleges and Schools or the Accrediting
Commission of the Association of Independent Colleges and

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

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

1 transfer value is depleted. A ~~No~~ transfer authorized under
2 ~~pursuant to~~ this paragraph may not shall exceed the number of
3 semester credit hours or semesters of dormitory residence
4 contracted on behalf of a qualified beneficiary.

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

20
21 Notwithstanding any other provision in this section, an
22 institution must be an "eligible educational institution"
23 under section 529 of the Internal Revenue Code to be eligible
24 for the transfer of advance payment contract benefits.

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

- 26 (a) The board may establish a direct-support
27 organization which is:
28 1. A Florida corporation, not for profit, incorporated
29 under the provisions of chapter 617 and approved by the
30 Secretary of State.
31 2. Organized and operated exclusively to receive,

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1 hold, invest, and administer property and to make expenditures
2 to or for the benefit of the program.

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

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

17 (b) The direct-support organization shall operate
18 under written contract with the board. The contract must
19 provide for:

20 1. Approval of the articles of incorporation and
21 bylaws of the direct-support organization by the board.

22 2. Submission of an annual budget for the approval of
23 the board. The budget must comply with rules adopted by the
24 board.

25 3. An annual financial and compliance audit of its
26 financial accounts and records by an independent certified
27 public accountant in accordance with rules adopted by the
28 board.

29 4. Certification by the board that the direct-support
30 organization is complying with the terms of the contract and
31 in a manner consistent with the goals and purposes of the

1 board and in the best interest of the state. Such
2 certification must be made annually and reported in the
3 official minutes of a meeting of the board.

4 5. The reversion to the board, or to the state if the
5 board ceases to exist, of moneys and property held in trust by
6 the direct-support organization for the benefit of the board
7 or program if the direct-support organization is no longer
8 approved to operate for the board or if the board ceases to
9 exist.

10 6. The fiscal year of the direct-support organization,
11 which must begin July 1 of each year and end June 30 of the
12 following year.

13 7. The disclosure of material provisions of the
14 contract and of the distinction between the board and the
15 direct-support organization to donors of gifts, contributions,
16 or bequests, and such disclosure on all promotional and
17 fundraising publications.

18 (c) An annual financial and compliance audit of the
19 financial accounts and records of the direct-support
20 organization must be performed by an independent certified
21 public accountant. The audit must be submitted to the board
22 for review and approval. Upon approval, the board shall
23 certify the audit report to the Auditor General for review.
24 The board and Auditor General shall have the authority to
25 require and receive from the organization or its independent
26 auditor any detail or supplemental data relative to the
27 operation of the organization.

28 (d) The identity of donors who desire to remain
29 anonymous shall be confidential and exempt from the provisions
30 of s. 119.07(1) and s. 24(a), Art. I of the State
31 Constitution, and such anonymity shall be maintained in the

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

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

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

26 (g) The board may invest funds of the direct-support
27 organization which have been allocated for the purchase of
28 advance payment contracts for scholarships with receipts for
29 advance payment contracts.

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

1 240.553 Florida College Savings Program.--

2 (20) PROGRAM IMPLEMENTATION

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

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

9 (b) A written ~~and unqualified~~ opinion from a qualified
10 member of the United States Patent Bar indicating that the
11 implementation of the program or the operation of the program
12 will not knowingly infringe upon any patent or copyright
13 specifically related to the financing of higher education
14 expenses;

15 (c) A written ~~and unqualified~~ opinion of qualified
16 counsel specializing in federal securities law that the
17 program and the offering of participation in the program does
18 are not violate ~~subject to~~ federal securities law; and

19 (d) A written ~~and unqualified~~ opinion from the board's
20 litigation counsel indicating that the implementation or
21 operation of the program will not adversely impact any pending
22 litigation against the board.

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

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

27 And the title is amended as follows:

28 remove from the title of the bill: the entire title

29

30 and insert in lieu thereof:

31 A bill to be entitled

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1 An act relating to postsecondary education;
2 amending s. 240.551, F.S.; providing for the
3 transfer of Florida Prepaid College Program
4 benefits to certain applied technology diploma
5 programs and vocational certificate programs;
6 requiring the direct-support organization to
7 operate under written contract with the board;
8 providing contract requirements; requiring an
9 annual financial and compliance audit; allowing
10 the Florida Prepaid College Board to permit
11 direct-support organizations established under
12 this section to use the property, facilities,
13 and personal services of the board; providing
14 for such direct-support organizations to invest
15 funds with the moneys invested under the
16 Florida Prepaid College Trust Fund; amending s.
17 240.553(20), F.S.; modifying the type of legal
18 counsel required prior to implementing the
19 program; providing an effective date.

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