

By the Committee on Appropriations; and Senator Silver

309-1997-02

1 A bill to be entitled

2 An act relating to educational benefits for

3 children of slain law enforcement officers and

4 firefighters; amending ss. 112.19, 112.191,

5 F.S.; providing for graduate or

6 postbaccalaureate educational expenses to be

7 waived for children of officers or firefighters

8 killed in the line of duty; providing for the

9 waiver to apply to a state resident who attends

10 a state institution as a full-time or part-time

11 student until a specified age; amending s.

12 240.552, F.S.; providing for scholarships

13 through the Florida College Savings Program to

14 pay fees for children of law enforcement,

15 correctional, or correctional probation

16 officers and firefighters in obtaining a

17 graduate or postbaccalaureate degree; providing

18 for eligibility; requiring the Department of

19 Education to obtain a certain percentage of

20 funds from private-sector entities; providing

21 an effective date.

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23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Section 112.19, Florida Statutes, is

26 amended to read:

27 112.19 Law enforcement, correctional, and correctional

28 probation officers; death benefits.--

29 (1) Whenever used in this section, the term:

30 (a) "Employer" means a state board, commission,

31 department, division, bureau, or agency, or a county,

1 municipality, or other political subdivision of the state,
2 which employs, appoints, or otherwise engages the services of
3 law enforcement, correctional, or correctional probation
4 officers.

5 (b) "Law enforcement, correctional, or correctional
6 probation officer" means any officer as defined in s.
7 943.10(14) or employee of the state or any political
8 subdivision of the state, including any law enforcement
9 officer, correctional officer, correctional probation officer,
10 state attorney investigator, or public defender investigator,
11 whose duties require such officer or employee to investigate,
12 pursue, apprehend, arrest, transport, or maintain custody of
13 persons who are charged with, suspected of committing, or
14 convicted of a crime; and the term includes any member of a
15 bomb disposal unit whose primary responsibility is the
16 location, handling, and disposal of explosive devices. The
17 term also includes any full-time officer or employee of the
18 state or any political subdivision of the state, certified
19 pursuant to chapter 943, whose duties require such officer to
20 serve process or to attend terms of circuit or county court as
21 bailiff.

22 (c) "Insurance" means insurance procured from a stock
23 company or mutual company or association or exchange
24 authorized to do business as an insurer in this state.

25 (d) "Fresh pursuit" means the pursuit of a person who
26 has committed or is reasonably suspected of having committed a
27 felony, misdemeanor, traffic infraction, or violation of a
28 county or municipal ordinance. The term does not imply
29 instant pursuit, but pursuit without unreasonable delay.

30 (2)(a) The sum of \$25,000 shall be paid as provided in
31 this section when a law enforcement, correctional, or

1 correctional probation officer, while engaged in the
2 performance of the officer's law enforcement duties, is
3 accidentally killed or receives accidental bodily injury which
4 results in the loss of the officer's life, provided that such
5 killing is not the result of suicide and that such bodily
6 injury is not intentionally self-inflicted.

7 (b) The sum of \$25,000 shall be paid as provided in
8 this section if a law enforcement, correctional, or
9 correctional probation officer is accidentally killed as
10 specified in paragraph (a) and the accidental death occurs as
11 a result of the officer's response to fresh pursuit or to the
12 officer's response to what is reasonably believed to be an
13 emergency. This sum is in addition to any sum provided for in
14 paragraph (a).

15 (c) If a law enforcement, correctional, or
16 correctional probation officer, while engaged in the
17 performance of the officer's law enforcement duties, is
18 unlawfully and intentionally killed or dies as a result of
19 such unlawful and intentional act, the sum of \$75,000 shall be
20 paid as provided in this section.

21 (d) Such payments, pursuant to the provisions of
22 paragraphs (a), (b), and (c), whether secured by insurance or
23 not, shall be made to the beneficiary designated by such law
24 enforcement, correctional, or correctional probation officer
25 in writing, signed by the officer and delivered to the
26 employer during the officer's lifetime. If no such
27 designation is made, then it shall be paid to the officer's
28 surviving child or children and spouse in equal portions, and
29 if there is no surviving child or spouse, then to the
30 officer's parent or parents. If a beneficiary is not

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1 designated and there is no surviving child, spouse, or parent,
2 then it shall be paid to the officer's estate.

3 (e) Such payments, pursuant to the provisions of
4 paragraphs (a), (b), and (c), are in addition to any workers'
5 compensation or pension benefits and are exempt from the
6 claims and demands of creditors of such law enforcement,
7 correctional, or correctional probation officer.

8 (f) If a full-time law enforcement, correctional, or
9 correctional probation officer who is employed by a state
10 agency is killed in the line of duty as a result of an act of
11 violence inflicted by another person while the officer is
12 engaged in the performance of law enforcement duties or as a
13 result of an assault against the officer under riot
14 conditions, the sum of \$1,000 shall be paid, as provided for
15 in paragraph (d), toward the funeral and burial expenses of
16 such officer. Such benefits are in addition to any other
17 benefits which employee beneficiaries and dependents are
18 entitled to under the provisions of the Workers' Compensation
19 Law or any other state or federal statutes.

20 (g) Any political subdivision of the state that
21 employs a full-time law enforcement officer as defined in s.
22 943.10(1) or a full-time correctional officer as defined in s.
23 943.10(2) who is killed in the line of duty on or after July
24 1, 1993, as a result of an act of violence inflicted by
25 another person while the officer is engaged in the performance
26 of law enforcement duties or as a result of an assault against
27 the officer under riot conditions shall pay the entire premium
28 of the political subdivision's health insurance plan for the
29 employee's surviving spouse until remarried, and for each
30 dependent child of the employee until the child reaches the
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1 age of majority or until the end of the calendar year in which
2 the child reaches the age of 25 if:

3 1. At the time of the employee's death, the child is
4 dependent upon the employee for support; and

5 2. The surviving child continues to be dependent for
6 support, or the surviving child is a full-time or part-time
7 student and is dependent for support.

8 (h)1. Any employer who employs a full-time law
9 enforcement, correctional, or correctional probation officer
10 who, on or after January 1, 1995, suffers a catastrophic
11 injury, as defined in s. 440.02(37), in the line of duty shall
12 pay the entire premium of the employer's health insurance plan
13 for the injured employee, the injured employee's spouse, and
14 for each dependent child of the injured employee until the
15 child reaches the age of majority or until the end of the
16 calendar year in which the child reaches the age of 25 if the
17 child continues to be dependent for support, or the child is a
18 full-time or part-time student and is dependent for support.
19 The term "health insurance plan" does not include supplemental
20 benefits that are not part of the basic group health insurance
21 plan. If the injured employee subsequently dies, the employer
22 shall continue to pay the entire health insurance premium for
23 the surviving spouse until remarried, and for the dependent
24 children, under the conditions outlined in this paragraph.

25 However:

26 a. Health insurance benefits payable from any other
27 source shall reduce benefits payable under this section.

28 b. It is unlawful for a person to willfully and
29 knowingly make, or cause to be made, or to assist, conspire
30 with, or urge another to make, or cause to be made, any false,
31 fraudulent, or misleading oral or written statement to obtain

1 health insurance coverage as provided under this paragraph. A
2 person who violates this sub-subparagraph commits a
3 misdemeanor of the first degree, punishable as provided in s.
4 775.082 or s. 775.083.

5 c. In addition to any applicable criminal penalty,
6 upon conviction for a violation as described in
7 sub-subparagraph b., a law enforcement, correctional, or
8 correctional probation officer or other beneficiary who
9 receives or seeks to receive health insurance benefits under
10 this paragraph shall forfeit the right to receive such health
11 insurance benefits, and shall reimburse the employer for all
12 benefits paid due to the fraud or other prohibited activity.
13 For purposes of this sub-subparagraph, "conviction" means a
14 determination of guilt that is the result of a plea or trial,
15 regardless of whether adjudication is withheld.

16 2. In order for the officer, spouse, and dependent
17 children to be eligible for such insurance coverage, the
18 injury must have occurred as the result of the officer's
19 response to fresh pursuit, the officer's response to what is
20 reasonably believed to be an emergency, or an unlawful act
21 perpetrated by another. Except as otherwise provided herein,
22 nothing in this paragraph shall be construed to limit health
23 insurance coverage for which the officer, spouse, or dependent
24 children may otherwise be eligible, except that a person who
25 qualifies under this section shall not be eligible for the
26 health insurance subsidy provided under chapter 121, chapter
27 175, or chapter 185.

28 (i) The Bureau of Crime Prevention and Training within
29 the Department of Legal Affairs shall adopt rules necessary to
30 implement paragraphs (a), (b), and (c).

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1 (3) If a law enforcement, correctional, or
2 correctional probation officer is accidentally killed as
3 specified in paragraph (2)(b) on or after June 22, 1990, or
4 unlawfully and intentionally killed as specified in paragraph
5 (2)(c) on or after July 1, 1980, the state shall waive certain
6 educational expenses ~~that which~~ children of the deceased
7 officer incur while obtaining a vocational-technical
8 certificate, ~~or~~ an undergraduate education, or a graduate or
9 postbaccalaureate professional degree. The amount waived by
10 the state shall be an amount equal to the cost of tuition, ~~and~~
11 matriculation, and other statutorily authorized registration
12 fees for a total of 120 credit hours for a
13 vocational-technical certificate or an undergraduate
14 education. For a child pursuing a graduate or
15 postbaccalaureate professional degree, the amount waived shall
16 equal the cost of matriculation and other statutorily
17 authorized fees incurred while the child continues to fulfill
18 the professional requirements associated with the graduate or
19 postbaccalaureate professional degree program, and eligibility
20 continues until the child's 29th birthday. The child may
21 attend a state vocational-technical school, a state community
22 college, or a state university. The child may attend any or
23 all of the institutions specified in this subsection, on
24 either a full-time or part-time basis. For a child pursuing a
25 vocational-technical certificate or an undergraduate
26 education, the benefits provided under this subsection shall
27 continue to the child until the child's 25th birthday. To be
28 eligible for the benefits provided under this subsection for
29 enrollment in a graduate or postbaccalaureate professional
30 degree program, the child must be a state resident, as defined
31 in s. 240.1201, at the time of enrollment.

1 (a) Upon failure of any child benefited by the
2 provisions of this section to comply with the ordinary and
3 minimum requirements of the institution attended, both as to
4 discipline and scholarship, the benefits shall be withdrawn as
5 to the child and no further moneys may be expended for the
6 child's benefits so long as such failure or delinquency
7 continues.

8 (b) Only a student in good standing in his or her
9 respective institution may receive the benefits thereof.

10 (c) A child receiving benefits under this section must
11 be enrolled according to the customary rules and requirements
12 of the institution attended.

13 (4)(a) The employer of such law enforcement,
14 correctional, or correctional probation officer is liable for
15 the payment of the sums specified in this section and is
16 deemed self-insured, unless it procures and maintains, or has
17 already procured and maintained, insurance to secure such
18 payments. Any such insurance may cover only the risks
19 indicated in this section, in the amounts indicated in this
20 section, or it may cover those risks and additional risks and
21 may be in larger amounts. Any such insurance shall be placed
22 by such employer only after public bid of such insurance
23 coverage which coverage shall be awarded to the carrier making
24 the lowest best bid.

25 (b) Payment of benefits to beneficiaries of state
26 employees, or of the premiums to cover the risk, under the
27 provisions of this section shall be paid from existing funds
28 otherwise appropriated to the department employing the law
29 enforcement, correctional, or correctional probation officers.

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1 (5) The Department of Education shall adopt rules and
2 procedures as are necessary to implement the educational
3 benefits provisions of this section.

4 (6) Notwithstanding any provision of this section to
5 the contrary, the death benefits provided in paragraphs (2)(c)
6 and (g) shall also be applicable and paid in cases where an
7 officer received bodily injury prior to July 1, 1993, and
8 subsequently died on or after July 1, 1993, as a result of
9 such in-line-of-duty injury attributable to an unlawful and
10 intentional act, or an act of violence inflicted by another,
11 or an assault on the officer under riot conditions. Payment
12 of such benefits shall be in accordance with provisions of
13 this section. Nothing in this provision shall be construed to
14 limit death benefits for which those individuals listed in
15 paragraph (2)(d) may otherwise be eligible.

16 Section 2. Section 112.191, Florida Statutes, is
17 amended to read:

18 112.191 Firefighters; death benefits.--

19 (1) Whenever used in this act:

20 (a) The term "employer" means a state board,
21 commission, department, division, bureau or agency, or a
22 county, municipality, or other political subdivision of the
23 state.

24 (b) The term "firefighter" means any full-time duly
25 employed uniformed firefighter employed by an employer, whose
26 primary duty is the prevention and extinguishing of fires, the
27 protection of life and property therefrom, the enforcement of
28 municipal, county, and state fire prevention codes, as well as
29 the enforcement of any law pertaining to the prevention and
30 control of fires, who is certified pursuant to s. 633.35, and
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1 who is a member of a duly constituted fire department of such
2 employer or who is a volunteer firefighter.

3 (c) The term "insurance" means insurance procured from
4 a stock company or mutual company or association or exchange
5 authorized to do business as an insurer in this state.

6 (2)(a) The sum of \$25,000 shall be paid as hereinafter
7 provided when a firefighter, while engaged in the performance
8 of his or her firefighter duties, is accidentally killed or
9 receives accidental bodily injury which subsequently results
10 in the loss of the firefighter's life, provided that such
11 killing is not the result of suicide and that such bodily
12 injury is not intentionally self-inflicted.

13 (b) The sum of \$25,000 shall be paid as hereinafter
14 provided if a firefighter is accidentally killed as specified
15 in paragraph (a) and the accidental death occurs as a result
16 of the firefighter's response to what is reasonably believed
17 to be an emergency involving the protection of life or
18 property. This sum shall be in addition to any sum provided
19 for in paragraph (a).

20 (c) If a firefighter, while engaged in the performance
21 of his or her firefighter duties, is unlawfully and
22 intentionally killed, dies as a result of a fire which has
23 been determined to have been caused by an act of arson, or
24 subsequently dies as a result of injuries sustained therefrom,
25 the sum of \$75,000 shall be paid as hereinafter provided.

26 (d) Such payments, pursuant to paragraphs (a), (b),
27 and (c), whether secured by insurance or not, shall be made to
28 the beneficiary designated by such firefighter in writing,
29 signed by the firefighter and delivered to the employer during
30 the firefighter's lifetime. If no such designation is made,
31 then it shall be paid to the firefighter's surviving child or

1 children and spouse in equal portions, and if there be no
2 surviving child or spouse, then to the firefighter's parent or
3 parents. If a beneficiary designation is not made and there
4 is no surviving child, spouse, or parent, then it shall be
5 paid to the firefighter's estate.

6 (e) Such payments, pursuant to the provisions of
7 paragraphs (a), (b), and (c), shall be in addition to any
8 workers' compensation or pension benefits and shall be exempt
9 from the claims and demands of creditors of such firefighter.

10 (f) Any political subdivision of the state that
11 employs a full-time firefighter who is killed in the line of
12 duty on or after July 1, 1993, as a result of an act of
13 violence inflicted by another person while the firefighter is
14 engaged in the performance of firefighter duties, as a result
15 of a fire which has been determined to have been caused by an
16 act of arson, or as a result of an assault against the
17 firefighter under riot conditions shall pay the entire premium
18 of the political subdivision's health insurance plan for the
19 employee's surviving spouse until remarried, and for each
20 dependent child of the employee until the child reaches the
21 age of majority or until the end of the calendar year in which
22 the child reaches the age of 25 if:

23 1. At the time of the employee's death, the child is
24 dependent upon the employee for support; and

25 2. The surviving child continues to be dependent for
26 support, or the surviving child is a full-time or part-time
27 student and is dependent for support.

28 (g)1. Any employer who employs a full-time firefighter
29 who, on or after January 1, 1995, suffers a catastrophic
30 injury, as defined in s. 440.02(37), in the line of duty shall
31 pay the entire premium of the employer's health insurance plan

1 for the injured employee, the injured employee's spouse, and
2 for each dependent child of the injured employee until the
3 child reaches the age of majority or until the end of the
4 calendar year in which the child reaches the age of 25 if the
5 child continues to be dependent for support, or the child is a
6 full-time or part-time student and is dependent for support.
7 The term "health insurance plan" does not include supplemental
8 benefits that are not part of the basic group health insurance
9 plan. If the injured employee subsequently dies, the employer
10 shall continue to pay the entire health insurance premium for
11 the surviving spouse until remarried, and for the dependent
12 children, under the conditions outlined in this paragraph.

13 However:

14 a. Health insurance benefits payable from any other
15 source shall reduce benefits payable under this section.

16 b. It is unlawful for a person to willfully and
17 knowingly make, or cause to be made, or to assist, conspire
18 with, or urge another to make, or cause to be made, any false,
19 fraudulent, or misleading oral or written statement to obtain
20 health insurance coverage as provided under this paragraph. A
21 person who violates this sub-subparagraph commits a
22 misdemeanor of the first degree, punishable as provided in s.
23 775.082 or s. 775.083.

24 c. In addition to any applicable criminal penalty,
25 upon conviction for a violation as described in
26 sub-subparagraph b., a firefighter or other beneficiary who
27 receives or seeks to receive health insurance benefits under
28 this paragraph shall forfeit the right to receive such health
29 insurance benefits, and shall reimburse the employer for all
30 benefits paid due to the fraud or other prohibited activity.

31 For purposes of this sub-subparagraph, "conviction" means a

1 determination of guilt that is the result of a plea or trial,
2 regardless of whether adjudication is withheld.

3 2. In order for the firefighter, spouse, and dependent
4 children to be eligible for such insurance coverage, the
5 injury must have occurred as the result of the firefighter's
6 response to what is reasonably believed to be an emergency
7 involving the protection of life or property, or an unlawful
8 act perpetrated by another. Except as otherwise provided
9 herein, nothing in this paragraph shall be construed to limit
10 health insurance coverage for which the firefighter, spouse,
11 or dependent children may otherwise be eligible, except that a
12 person who qualifies for benefits under this section shall not
13 be eligible for the health insurance subsidy provided under
14 chapter 121, chapter 175, or chapter 185.

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16 Notwithstanding any provision of this section to the contrary,
17 the death benefits provided in paragraphs (b), (c), and (f)
18 shall also be applicable and paid in cases where a firefighter
19 received bodily injury prior to July 1, 1993, and subsequently
20 died on or after July 1, 1993, as a result of such
21 in-line-of-duty injury.

22 (h) The Division of the State Fire Marshal within the
23 Department of Insurance is directed to promulgate rules as are
24 necessary to implement the provisions of this section.

25 (3) If a firefighter is accidentally killed as
26 specified in paragraph (2)(b) on or after June 22, 1990, or
27 unlawfully and intentionally killed as specified in paragraph
28 (2)(c), on or after July 1, 1980, the state shall waive
29 certain educational expenses that ~~which~~ children of the
30 deceased firefighter incur while obtaining a
31 vocational-technical certificate, or an undergraduate

1 education, or a graduate or postbaccalaureate professional
2 degree. The amount waived by the state shall be an amount
3 equal to the cost of tuition,~~and~~ matriculation,~~and other~~
4 statutorily authorized registration fees for a total of 120
5 credit hours for a vocational-technical certificate or an
6 undergraduate education. For a child pursuing a graduate or
7 postbaccalaureate professional degree, the amount waived shall
8 equal the cost of matriculation and other statutorily
9 authorized fees incurred while the child continues to fulfill
10 the professional requirements associated with the graduate or
11 postbaccalaureate professional degree program, and eligibility
12 continues until the child's 29th birthday.The child may
13 attend a state vocational-technical school, a state community
14 college, or a state university. The child may attend any or
15 all of the institutions specified in this subsection, on
16 either a full-time or part-time basis. For a child pursuing a
17 vocational-technical certificate or an undergraduate
18 education, the benefits provided under this subsection shall
19 continue to such a child until the child's 25th birthday. To
20 be eligible for the benefits provided under this subsection
21 for enrollment in a graduate or postbaccalaureate professional
22 degree program, the child must be a state resident, as defined
23 in s. 240.1201, at the time of enrollment.

24 (a) Upon failure of any child benefited by the
25 provisions of this section to comply with the ordinary and
26 minimum requirements of the institution attended, both as to
27 discipline and scholarship, the benefits thereof shall be
28 withdrawn as to the child and no further moneys expended for
29 the child's benefits so long as such failure or delinquency
30 continues.

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1 (b) Only students in good standing in their respective
2 institutions shall receive the benefits thereof.

3 (c) All children receiving benefits under this section
4 shall be enrolled according to the customary rules and
5 requirements of the institution attended.

6 (4)(a) The employer of such firefighter shall be
7 liable for the payment of said sums specified in this section
8 and shall be deemed self-insured, unless it procures and
9 maintains, or has already procured and maintained, insurance
10 to secure such payments. Any such insurance may cover only the
11 risks indicated in this section, in the amounts indicated in
12 this section, or it may cover those risks and additional risks
13 and may be in larger amounts. Any such insurance shall be
14 placed by such employer only after public bid of such
15 insurance coverage which coverage shall be awarded to the
16 carrier making the lowest best bid.

17 (b) Payment of benefits to beneficiaries of state
18 employees, or of the premiums to cover the risk, under the
19 provisions of this section, shall be paid from existing funds
20 otherwise appropriated for the department.

21 (5) The Department of Education shall adopt ~~is~~
22 ~~directed to promulgate~~ rules and procedures as are necessary
23 to implement the educational benefits provisions of this
24 section.

25 Section 3. Notwithstanding subsection (7) of section 3
26 of chapter 2000-321, Laws of Florida, section 240.552, Florida
27 Statutes, shall not stand repealed January 7, 2003, as
28 scheduled by that law, but that section is reenacted and
29 amended to read:

30 240.552 Florida Prepaid Tuition Scholarship
31 Program.--The Florida Prepaid Tuition Scholarship Program is

1 ~~hereby~~ established with the intent to provide economically
2 disadvantaged youth with prepaid postsecondary tuition
3 scholarships and to provide scholarships through the Florida
4 College Savings Program for children of law enforcement
5 officers or firefighters killed in the line of duty. The
6 direct-support organization established pursuant to s. 240.551
7 shall administer the program with the assistance and
8 cooperation of the Department of Education to achieve the
9 following objectives:

10 (1) Provide an incentive for economically
11 disadvantaged youth to improve school attendance and academic
12 performance in order to graduate and pursue a postsecondary
13 education.

14 (2) Obtain the commitment and involvement of private
15 sector entities by virtue of funding matches with a ratio of
16 50 percent provided by the private sector and 50 percent
17 provided by the state.

18 (3) Purchase prepaid tuition scholarships for students
19 certified by the Department of Education to the direct-support
20 organization who meet minimum economic and school requirements
21 and remain drug free and crime free.

22 (a) For the purpose of this subsection, "drug free"
23 means not being convicted of, or adjudicated delinquent for,
24 any violation of chapter 893 after being designated a
25 recipient of a Florida prepaid tuition scholarship.

26 (b) For the purpose of this subsection, "crime free"
27 means not being convicted of, or adjudicated delinquent for,
28 any felony or first degree misdemeanor as defined in ss.
29 775.08 and 775.081 after being designated a recipient of a
30 Florida prepaid tuition scholarship.

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1 (4) Provide scholarships through the Florida College
2 Savings Program authorized in s. 240.553 to cover the cost of
3 tuition, matriculation, and other statutorily authorized fees
4 for obtaining a graduate or postbaccalaureate degree for
5 children of law enforcement, correctional, or correctional
6 probation officers who are eligible for the waiver of
7 undergraduate tuition, matriculation, and statutorily
8 authorized fees under s. 112.19(3) and for children of
9 firefighters who are eligible for the waiver of undergraduate
10 tuition, matriculation, and statutorily authorized fees under
11 s. 112.191(3). The scholarships are available for such
12 children until the child's 29th birthday. To be eligible for a
13 scholarship, the child must be a state resident, as defined in
14 s. 240.1201, at the time of enrollment. The Department of
15 Education shall obtain the commitment and involvement of
16 private-sector entities by virtue of funding matches with a
17 ratio of 25 percent provided by the private sector and 75
18 percent provided by the state for the scholarship authorized
19 under this subsection.

20 Section 4. This act shall take effect July 1, 2002.

21
22 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
23 COMMITTEE SUBSTITUTE FOR
24 Senate Bill 176

25 CS/SB 176 deletes the term "tuition" from the list of fees to
26 be waived for graduate and post-baccalaureate in-state
students, because tuition is charged only to out of state
students.

27 CS/SB 176 also allows the Prepaid Tuition Scholarship Program
28 to share in the fee costs of graduate and post baccalaureate
29 education at state institutions, for children of a public
safety officer or a firefighter who has been killed in the
30 line of duty.