

Bill No. HB 319, 1st Eng.

Amendment No. \_\_\_\_ Barcode 790626

CHAMBER ACTION

Senate

House

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Senator Constantine moved the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Subsection (5) of section 17.076, Florida Statutes, is amended to read:

17.076 Direct deposit of funds.--

(5) All direct deposit records made prior to October 1, 1986, are exempt from the provisions of s. 119.07(1). With respect to direct deposit records made on or after October 1, 1986, the names of the authorized financial institutions and the account numbers of the beneficiaries are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Notwithstanding this exemption and s. 119.07(3)(dd), the department may provide a state university, upon request, with that university's employee or vendor direct deposit authorization information on file with the department in order to accommodate the transition to the university accounting system. The state university shall

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1 maintain the confidentiality of all such information provided  
2 by the department.

3 Section 2. Subsection (2) of section 110.161, Florida  
4 Statutes, is amended to read:

5 110.161 State employees; pretax benefits program.--

6 (2) As used in this section, "employee" means any  
7 individual filling an authorized and established position in  
8 the executive, legislative, or judicial branch of the state,  
9 including the employees of the State Board of Administration  
10 and the state universities.

11 Section 3. Subsection (2) of section 112.215, Florida  
12 Statutes, is amended to read:

13 112.215 Government employees; deferred compensation  
14 program.--

15 (2) For the purposes of this section, the term  
16 "employee" means any person, whether appointed, elected, or  
17 under contract, providing services for the state; any state  
18 agency or county or other political subdivision of the state;  
19 any municipality; any state university board of trustees; or  
20 any constitutional county officer under s. 1(d), Art. VIII of  
21 the State Constitution for which compensation or statutory  
22 fees are paid.

23 Section 4. Subsections (1), (2), (3), (4), (5), and  
24 (6) of section 287.064, Florida Statutes, are amended to read:

25 287.064 Consolidated financing of deferred-payment  
26 purchases.--

27 (1) The Division of Bond Finance of the State Board of  
28 Administration and the Comptroller shall plan and coordinate  
29 deferred-payment purchases made by or on behalf of the state  
30 or its agencies or by or on behalf of state universities or  
31 state community colleges participating under this section

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1 pursuant to s. 1001.74(5) or s. 1001.64(26). The Division of  
2 Bond Finance shall negotiate and the Comptroller shall execute  
3 agreements and contracts to establish master equipment  
4 financing agreements for consolidated financing of  
5 deferred-payment, installment sale, or lease purchases with a  
6 financial institution or a consortium of financial  
7 institutions. As used in this act, the term "deferred-payment"  
8 includes installment sale and lease-purchase.

9 (a) The period during which equipment may be acquired  
10 under any one master equipment financing agreement shall be  
11 limited to not more than 3 years.

12 (b) Repayment of the whole or a part of the funds  
13 drawn pursuant to the master equipment financing agreement may  
14 continue beyond the period established pursuant to paragraph

15 (a).

16 (c) The interest rate component of any master  
17 equipment financing agreement shall be deemed to comply with  
18 the interest rate limitation imposed in s. 287.063 so long as  
19 the interest rate component of every interagency, state  
20 university, or community college agreement entered into under  
21 such master equipment financing agreement complies with the  
22 interest rate limitation imposed in s. 287.063. Such interest  
23 rate limitation does not apply when the payment obligation  
24 under the master equipment financing agreement is rated by a  
25 nationally recognized rating service in any one of the three  
26 highest classifications, which rating services and  
27 classifications are determined pursuant to rules adopted by  
28 the Comptroller.

29 (2) Unless specifically exempted by the Comptroller,  
30 all deferred-payment purchases, including those made by a  
31 state university or community college that is participating

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1 under this section, shall be acquired by funding through  
2 master equipment financing agreements. The Comptroller is  
3 authorized to exempt any purchases from consolidated financing  
4 when, in his or her judgment, alternative financing would be  
5 cost-effective or otherwise beneficial to the state.

6 (3) The Comptroller may require agencies to enter into  
7 interagency agreements and may require participating state  
8 universities or community colleges to enter into systemwide  
9 agreements for the purpose of carrying out the provisions of  
10 this act.

11 (a) The term of any interagency or systemwide  
12 agreement shall expire on June 30 of each fiscal year but  
13 shall automatically be renewed annually subject to  
14 appropriations and deferred-payment schedules. The period of  
15 any interagency or systemwide agreement shall not exceed the  
16 useful life of the equipment for which the agreement was made  
17 as determined by the Comptroller.

18 (b) The interagency or systemwide agreements may  
19 include, but are not limited to, equipment costs, terms, and a  
20 pro rata share of program and issuance expenses.

21 (4) Each state university or community college may  
22 choose to have its purchasing agreements involving  
23 administrative and instructional materials consolidated under  
24 this section.

25 (5) The Comptroller is authorized to automatically  
26 debit each agency's funds or each state university's funds and  
27 each community college's portion of the Community College  
28 Program Fund consistently with the deferred-payment schedules.

29 (6) There is created the Consolidated Payment Trust  
30 Fund in the Comptroller's office for the purpose of  
31 implementing the provisions of this act. All funds debited

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1 from each agency, state university, and ~~each~~ community college  
 2 may be deposited in the trust fund and shall be used to meet  
 3 the financial obligations incurred pursuant to this act. Any  
 4 income from the investment of funds may be used to fund  
 5 administrative costs associated with this program.

6 Section 5. Subsection (6) of section 440.38, Florida  
 7 Statutes, is amended to read:

8 440.38 Security for compensation; insurance carriers  
 9 and self-insurers.--

10 (6) The state and its boards, bureaus, departments,  
 11 and agencies and all of its political subdivisions which  
 12 employ labor, and the state universities, shall be deemed  
 13 self-insurers under the terms of this chapter, unless they  
 14 elect to procure and maintain insurance to secure the benefits  
 15 of this chapter to their employees; and they are hereby  
 16 authorized to pay the premiums for such insurance.

17 Section 6. Section 1001.71, Florida Statutes, is  
 18 amended to read:

19 1001.71 University boards of trustees; membership.--

20 (1) Pursuant to s. 7(c), Art. IX of the State  
 21 Constitution, each local constituent state university shall be  
 22 administered by a university board of trustees comprised of 13  
 23 members as follows: six citizen members appointed by the  
 24 Governor subject to confirmation by the Senate, five citizen  
 25 members appointed by the Board of Governors subject to  
 26 confirmation by the Senate, the chair of the faculty senate or  
 27 the equivalent, and the president of the student body of the  
 28 university. In order to achieve staggered terms, beginning  
 29 July 1, 2003, of the initial appointments by the Governor, one  
 30 member shall be appointed to serve a 3-year term, three  
 31 members shall be appointed to serve 4-year terms, and two

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1 members shall be appointed to serve 5-year terms. Beginning  
2 July 1, 2003, of the initial appointments of the Board of  
3 Governors, one member shall be appointed to serve a 3-year  
4 term, two members shall be appointed to serve 4-year terms,  
5 and 2 members shall be appointed to serve 5-year terms.  
6 ~~University boards of trustees shall be comprised of 12 members~~  
7 ~~appointed by the Governor and confirmed by the Senate in the~~  
8 ~~regular legislative session immediately following his or her~~  
9 ~~appointment. In addition, the student body president elected~~  
10 ~~on the main campus of the university pursuant to s. 1004.26~~  
11 ~~shall serve ex officio as a voting member of his or her~~  
12 ~~university board of trustees. There shall be no state~~  
13 ~~residency requirement for university board members, but the~~  
14 ~~Governor shall consider diversity and regional representation.~~  
15 (2) Members of the boards of trustees shall receive no  
16 compensation but may be reimbursed for travel and per diem  
17 expenses as provided in s. 112.061.  
18 (3) ~~The Governor may remove a trustee upon the~~  
19 ~~recommendation of the State Board of Education, or for cause.~~  
20 (4) ~~Boards of trustees' members shall be appointed for~~  
21 ~~staggered 4-year terms, and may be reappointed for additional~~  
22 ~~terms not to exceed 8 years of service.~~  
23 (3)(5) Each board of trustees shall select its chair  
24 and vice chair from the appointed members at its first regular  
25 meeting after July 1. The chair shall serve for 2 years and  
26 may be reselected for one additional consecutive term. The  
27 duties of the chair shall include presiding at all meetings of  
28 the board of trustees, calling special meetings of the board  
29 of trustees, and attesting to actions of the board of  
30 trustees, ~~and notifying the Governor in writing whenever a~~  
31 ~~board member fails to attend three consecutive regular board~~

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1 ~~meetings in any fiscal year, which failure may be grounds for~~  
 2 ~~removal.~~ The duty of the vice chair is to act as chair during  
 3 the absence or disability of the chair.

4 ~~(4)(6)~~ The university president shall serve as  
 5 executive officer and corporate secretary of the board of  
 6 trustees and shall be responsible to the board of trustees for  
 7 all operations of the university and for setting the agenda  
 8 for meetings of the board of trustees in consultation with the  
 9 chair.

10 Section 7. Subsection (19) of section 1001.74, Florida  
 11 Statutes, is amended to read:

12 1001.74 Powers and duties of university boards of  
 13 trustees.--

14 (19) Each board of trustees shall establish the  
 15 personnel program for all employees of the university,  
 16 including the president, pursuant to the provisions of chapter  
 17 1012 and, in accordance with rules and guidelines of the State  
 18 Board of Education, including: compensation and other  
 19 conditions of employment, recruitment and selection,  
 20 nonreappointment, standards for performance and conduct,  
 21 evaluation, benefits and hours of work, leave policies,  
 22 recognition and awards, inventions and works, travel, learning  
 23 opportunities, exchange programs, academic freedom and  
 24 responsibility, promotion, assignment, demotion, transfer,  
 25 tenure and permanent status, ethical obligations and conflicts  
 26 of interest, restrictive covenants, disciplinary actions,  
 27 complaints, appeals and grievance procedures, and separation  
 28 and termination from employment. The Department of Management  
 29 Services shall retain authority over state university  
 30 employees for programs established in ss. 110.123, 110.161,  
 31 110.1232, 110.1234, and 110.1238 and in chapters 121, 122, and

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1 238.

2 Section 8. Subsection (5) of section 1004.24, Florida  
3 Statutes, is amended to read:

4 1004.24 State Board of Education authorized to secure  
5 liability insurance.--

6 (5) Each self-insurance program council shall make  
7 provision for an annual financial audit pursuant to s. 11.45  
8 ~~postaudit~~ of its ~~financial~~ accounts to be conducted by an  
9 independent certified public accountant. The annual audit  
10 report must include a management letter and shall be submitted  
11 to the State Board of Education for review. The State Board of  
12 Education shall have the authority to require and receive from  
13 the self-insurance program council or from its independent  
14 auditor any detail or supplemental data relative to the  
15 operation of the self-insurance program.

16 Section 9. Subsections (1) and (5) of section 1004.26,  
17 Florida Statutes, are amended to read:

18 1004.26 University student governments.--

19 (1) A student government is created on the main campus  
20 of each state university. In addition, each university board  
21 of trustees may establish a student government on any branch  
22 campus or center. Each student government is a part of the  
23 university at which it is established.

24 ~~(5) Each student government is a part of the~~  
25 ~~university at which it is established. If an internal~~  
26 ~~procedure of the university student government is disapproved~~  
27 ~~by the university president under s. 229.0082(15), a member of~~  
28 ~~the university board of trustees may request a review of the~~  
29 ~~disapproved procedure at the next meeting of the board of~~  
30 ~~trustees.~~

31 Section 10. Paragraph (f) is added to subsection (1),



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1 paragraphs (a) and (b) of subsection (2) are amended, and  
 2 paragraph (d) is added to subsection (2) of section 1009.21,  
 3 Florida Statutes, to read:

4           1009.21 Determination of resident status for tuition  
 5 purposes.--Students shall be classified as residents or  
 6 nonresidents for the purpose of assessing tuition in community  
 7 colleges and state universities.

8           (1) As used in this section:

9           (f) The term "initial enrollment" means the first day  
 10 of class.

11           (2)(a) To qualify as a resident for tuition purposes:

12           1. A person or, if that person is a dependent child,  
 13 his or her parent or parents must have established legal  
 14 residence in this state and must have maintained legal  
 15 residence in this state for at least 12 months immediately  
 16 prior to his or her initial enrollment at an institution of  
 17 higher education qualification.

18           2. Every applicant for admission to an institution of  
 19 higher education shall be required to make a statement as to  
 20 his or her length of residence in the state and, further,  
 21 shall establish that his or her presence or, if the applicant  
 22 is a dependent child, the presence of his or her parent or  
 23 parents in the state currently is, and during the requisite  
 24 12-month qualifying period was, for the purpose of maintaining  
 25 a bona fide domicile, rather than for the purpose of  
 26 maintaining a mere temporary residence or abode incident to  
 27 enrollment in an institution of higher education.

28           (b) However, with respect to a dependent child living  
 29 with an adult relative other than the child's parent, such  
 30 child may qualify as a resident for tuition purposes if the  
 31 adult relative is a legal resident who has maintained legal

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1 residence in this state for at least 12 months immediately  
2 prior to the child's initial enrollment at an institution of  
3 higher learning qualification, provided the child has resided  
4 continuously with such relative for the 5 years immediately  
5 prior to the child's initial enrollment at an institution of  
6 higher learning qualification, during which time the adult  
7 relative has exercised day-to-day care, supervision, and  
8 control of the child.

9 (d) An individual who is classified as a nonresident  
10 for tuition purposes may become eligible for reclassification  
11 as a resident for tuition purposes if that individual or, if  
12 that individual is a dependent child, his or her parents,  
13 presents documentation that supports permanent residency in  
14 this state, such as documentation of permanent full-time  
15 employment for the previous 12 months or the purchase of a  
16 home in this state and residence in the state for the prior 12  
17 months.

18 Section 11. Board of Governors.--

19 (1) Pursuant to Section 7(d), Article IX of the State  
20 Constitution, the Board of Governors is established as a body  
21 corporate comprised of 17 members as follows: 14 citizen  
22 members appointed by the Governor and subject to confirmation  
23 by the Senate, the Commissioner of Education, the chair of the  
24 advisory council of faculty senates or the equivalent, and the  
25 president of the Florida Student Association or the  
26 equivalent. The appointed members shall be appointed to serve  
27 staggered 7-year terms. In order to achieve staggered terms,  
28 beginning July 1, 2003, of the initial appointments, four  
29 members shall be appointed to serve 6-year terms, five members  
30 shall be appointed to serve 5-year terms, and five members  
31 shall be appointed to serve 4-year terms.

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1       (2) Members of the Board of Governors shall receive no  
2 compensation but may be reimbursed for travel and per diem  
3 expenses as provided in section 112.061, Florida Statutes.

4       (3) The Board of Governors is subject to Section 24,  
5 Article I of the State Constitution, chapter 119, Florida  
6 Statutes, and section 286.011, Florida Statutes.

7           Section 12. Subsection (12) of section 1009.24,  
8 Florida Statutes, is amended to read:

9           1009.24 State university student fees.--

10          (12) Each university board of trustees is authorized  
11 to establish the following fees:

12           (a) A nonrefundable application fee in an amount not  
13 to exceed \$30.

14           (b) A nonrefundable admissions deposit for  
15 undergraduate and graduate degree programs in an amount not to  
16 exceed \$200. The admissions deposit shall be imposed at the  
17 time of a student's acceptance to the university and shall be  
18 applied to the student's tuition upon enrollment. In the event  
19 that a student does not enroll in the university, the  
20 admissions deposit shall be deposited in an auxiliary account  
21 of the university and used to expand financial aid,  
22 scholarships, financial assistance, and student academic and  
23 career counseling services at the university.

24           ~~(c)~~(b) An orientation fee in an amount not to exceed  
25 \$35.

26           ~~(d)~~(c) A fee for security, access, or identification  
27 cards. The annual fee for such a card may not exceed \$10 per  
28 card. The maximum amount charged for a replacement card may  
29 not exceed \$15.

30           ~~(e)~~(d) Registration fees for audit and zero-hours  
31 registration; a service charge, which may not exceed \$15, for

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1 the payment of tuition in installments; and a  
2 late-registration fee in an amount not less than \$50 nor more  
3 than \$100 to be imposed on students who fail to initiate  
4 registration during the regular registration period.

5 ~~(f)(e)~~ A late-payment fee in an amount not less than  
6 \$50 nor more than \$100 to be imposed on students who fail to  
7 pay or fail to make appropriate arrangements to pay (by means  
8 of installment payment, deferment, or third-party billing)  
9 tuition by the deadline set by each university. Each  
10 university may adopt specific procedures or policies for  
11 waiving the late-payment fee for minor underpayments.

12 ~~(g)(f)~~ A fee for miscellaneous health-related charges  
13 for services provided at cost by the university health center  
14 which are not covered by the health fee set under subsection  
15 (10).

16 ~~(h)(g)~~ Materials and supplies fees to offset the cost  
17 of materials or supplies that are consumed in the course of  
18 the student's instructional activities, excluding the cost of  
19 equipment replacement, repairs, and maintenance.

20 ~~(i)(h)~~ Housing rental rates and miscellaneous housing  
21 charges for services provided by the university at the request  
22 of the student.

23 ~~(j)(i)~~ A charge representing the reasonable cost of  
24 efforts to collect payment of overdue accounts.

25 ~~(k)(j)~~ A service charge on university loans in lieu of  
26 interest and administrative handling charges.

27 ~~(l)(k)~~ A fee for off-campus course offerings when the  
28 location results in specific, identifiable increased costs to  
29 the university.

30 ~~(m)(l)~~ Library fees and fines, including charges for  
31 damaged and lost library materials, overdue reserve library

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1 books, interlibrary loans, and literature searches.

2 ~~(n)(m)~~ Fees relating to duplicating, photocopying,  
3 binding, and microfilming; copyright services; and  
4 standardized testing. These fees may be charged only to those  
5 who receive the services.

6 ~~(o)(n)~~ Fees and fines relating to the use, late  
7 return, and loss and damage of facilities and equipment.

8 ~~(p)(o)~~ A returned-check fee as authorized by s.  
9 832.07(1) for unpaid checks returned to the university.

10 ~~(q)(p)~~ Traffic and parking fines, charges for parking  
11 decals, and transportation access fees.

12 ~~(r)(q)~~ An Educational Research Center for Child  
13 Development fee for child care and services offered by the  
14 center.

15 ~~(s)(r)~~ Fees for transcripts and diploma replacement,  
16 not to exceed \$10 per item.

17 Section 13. Effective upon this act becoming a law and  
18 applicable retroactive to January 7, 2003, section 1010.10,  
19 Florida Statutes, is created to read:

20 1010.10 Florida Uniform Management of Institutional  
21 Funds Act.--

22 (1) SHORT TITLE.--This section may be cited as the  
23 "Florida Uniform Management of Institutional Funds Act."

24 (2) DEFINITIONS.--As used in this section, the term:

25 (a) "Endowment fund" means an institutional fund, or  
26 any part thereof, not wholly expendable by the institution on  
27 a current basis under the terms of the applicable gift  
28 instrument.

29 (b) "Governing board" means the body responsible for  
30 the management of an institution or of an institutional fund.

31 (c) "Institution" means an incorporated or

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1 unincorporated organization organized and operated exclusively  
2 for the advancement of educational purposes, or a governmental  
3 entity to the extent that it holds funds exclusively for  
4 educational purposes.

5 (d) "Institutional fund" means a fund held by an  
6 institution for its exclusive use, benefit, or purposes. The  
7 term excludes a fund held for an institution by a trustee that  
8 is not an institution. The term also excludes a fund in which  
9 a beneficiary that is not an institution has an interest,  
10 other than possible rights that could arise upon violation or  
11 failure of the purposes of the fund.

12 (e) "Instrument" means a will; deed; grant;  
13 conveyance; agreement; memorandum; electronic record; writing;  
14 or other governing document, including the terms of any  
15 institutional solicitations from which an institutional fund  
16 resulted, under which property is transferred to or held by an  
17 institution as an institutional fund.

18 (3) EXPENDITURE OF ENDOWMENT FUNDS.--

19 (a) A governing board may expend so much of an  
20 endowment fund as the governing board determines to be prudent  
21 for the uses and purposes for which the endowment fund is  
22 established, consistent with the goal of conserving the  
23 purchasing power of the endowment fund. In making its  
24 determination the governing board shall use reasonable care,  
25 skill, and caution in considering the following:

- 26 1. The purposes of the institution;
- 27 2. The intent of the donors of the endowment fund;
- 28 3. The terms of the applicable instrument;
- 29 4. The long-term and short-term needs of the  
30 institution in carrying out its purposes;
- 31 5. The general economic conditions;

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- 1           6. The possible effect of inflation or deflation;
- 2           7. The other resources of the institution; and
- 3           8. Perpetuation of the endowment.

4

5 Expenditures made under this paragraph will be considered  
 6 prudent if the amount expended is consistent with the goal of  
 7 preserving the purchasing power of the endowment fund.

8           (b) A restriction upon the expenditure of an endowment  
 9 fund may not be implied from a designation of a gift as an  
 10 endowment or from a direction or authorization in the  
 11 instrument to use only "income," "interest," "dividends," or  
 12 "rents, issues or profits," or "to preserve the principal  
 13 intact," or words of similar import.

14           (c) The provisions of paragraph (a) shall not apply to  
 15 instruments if the instrument so indicates by stating, "I  
 16 direct that the expenditure provision of paragraph (a) of  
 17 subsection (3) of the Florida Uniform Management of  
 18 Institutional Funds Act not apply to this gift" or words of  
 19 similar import.

20           (d) This subsection does not limit the authority of a  
 21 governing board to expend funds as permitted under other law,  
 22 the terms of the instrument, or the charter of the  
 23 institution.

24           (e) Except as otherwise provided, this subsection  
 25 applies to instruments executed or in effect before or after  
 26 the effective date of this section.

27           (4) STANDARD OF CONDUCT.--

28           (a) Members of a governing board shall invest and  
 29 manage an institutional fund as a prudent investor would, by  
 30 considering the purposes, distribution requirements, and other  
 31 circumstances of the fund. In satisfying this standard, the

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1 governing board shall exercise reasonable care, skill, and  
2 caution.

3 (b) A governing board's investment and management  
4 decisions about individual assets shall be made not in  
5 isolation but in the context of the institutional fund's  
6 portfolio of investments as a whole and as a part of an  
7 overall investment strategy that provides risk and return  
8 objectives reasonably suited to the fund and to the  
9 institution.

10 (c) Among circumstances that a governing board shall  
11 consider are:

12 1. Long-term and short-term needs of the institution  
13 in carrying out its purposes;

14 2. Its present and anticipated financial resources;

15 3. General economic conditions;

16 4. The possible effect of inflation or deflation;

17 5. The expected tax consequences, if any, of  
18 investment decisions or strategies;

19 6. The role that each investment or course of action  
20 plays within the overall investment portfolio of the  
21 institutional fund;

22 7. The expected total return from income and the  
23 appreciation of its investments;

24 8. Other resources of the institution;

25 9. The needs of the institution and the institutional  
26 fund for liquidity, regularity of income, and preservation or  
27 appreciation of capital; and

28 10. An asset's special relationship or special value,  
29 if any, to the purposes of the applicable gift instrument or  
30 to the institution.

31 (d) A governing board shall make a reasonable effort



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1 to verify the facts relevant to the investment and management  
2 of institutional fund assets.

3 (e) A governing board shall diversify the investments  
4 of an institutional fund unless the board reasonably  
5 determines that, because of special circumstances, the  
6 purposes of the fund are better served without diversifying.

7 (f) A governing board shall invest and manage the  
8 assets of an institutional fund solely in the interest of the  
9 institution.

10 (5) INVESTMENT AUTHORITY.--In addition to an  
11 investment otherwise authorized by law or by the applicable  
12 gift instrument, and without restriction to investments a  
13 fiduciary may make, the governing board, subject to any  
14 specific limitations in the applicable gift instrument or in  
15 the applicable law, other than law relating to investments by  
16 a fiduciary:

17 (a) Within a reasonable time after receiving property,  
18 shall review the property and make and implement decisions  
19 concerning the retention and disposition of the assets, in  
20 order to bring the portfolio of the institutional fund into  
21 compliance with the purposes, terms, distribution  
22 requirements, and other circumstances of the institution, and  
23 with the requirements of this section;

24 (b) May invest in any kind of property or type of  
25 investment consistent with the standards of this section;

26 (c) May include all or any part of an institutional  
27 fund in any pooled or common fund maintained by the  
28 institution; and

29 (d) May invest all or any part of the institutional  
30 fund in any other pooled or common fund available for  
31 investment, including shares or interests in regulated

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1 investment companies, mutual funds, common trust funds,  
 2 investment partnerships, real estate investment trusts, or  
 3 similar organizations in which funds are commingled and  
 4 investment determinations are made by persons other than the  
 5 governing board.

6 (6) DELEGATION OF INVESTMENT MANAGEMENT.--

7 (a) Except as otherwise provided by applicable law  
 8 relating to governmental institutions or funds, a governing  
 9 board may delegate investment and management functions that a  
 10 prudent governing body could properly delegate under the  
 11 circumstances. A governing board shall exercise reasonable  
 12 care, skill, and caution in:

13 1. Selecting an agent;

14 2. Establishing the scope and terms of the delegation,  
 15 consistent with the purposes of the institutional fund; and  
 16 3. Periodically reviewing the agent's actions to  
 17 monitor the agent's performance and the agent's compliance  
 18 with the terms of the delegation.

19 (b) In performing a delegated function, an agent owes  
 20 a duty to the governing board to exercise reasonable care to  
 21 comply with the terms of the delegation.

22 (c) The members of a governing board who comply with  
 23 the requirements of paragraph (a) are not liable for the  
 24 decisions or actions of the agent to whom the function was  
 25 delegated.

26 (d) By accepting the delegation of an investment or  
 27 management function from a governing board of an institution  
 28 that is subject to the laws of this state, an agent submits to  
 29 the jurisdiction of the courts of this state in all actions  
 30 arising from the delegation.

31 (7) INVESTMENT COSTS.--In investing and managing trust

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1 assets, a governing board may only incur costs that are  
2 appropriate and reasonable in relation to the assets and the  
3 purposes of the institution.

4 (8) RELEASE OF RESTRICTIONS ON USE OR INVESTMENT.--

5 (a) With the written consent of the donor, a governing  
6 board may release, in whole or in part, a restriction imposed  
7 by the applicable instrument on the use or investment of an  
8 institutional fund.

9 (b) If written consent of the donor cannot be obtained  
10 by reason of the donor's death, disability, unavailability, or  
11 impossibility of identification, a governing board may  
12 release, in whole or in part, a restriction imposed by the  
13 applicable instrument on the use or investment of an  
14 institutional fund if the fund has a total value of less than  
15 \$100,000 and if the governing board, in its fiduciary  
16 judgment, concludes that the value of the fund is insufficient  
17 to justify the cost of administration as a separate  
18 institutional fund.

19 (c) If written consent of the donor cannot be obtained  
20 by reason of the donor's death, disability, unavailability, or  
21 impossibility of identification, a governing board may apply  
22 in the name of the institution to the circuit court of the  
23 county in which the institution is located for release of a  
24 restriction imposed by the applicable instrument on the use or  
25 investment of an institutional fund. The Attorney General  
26 shall be notified of the application and shall be given an  
27 opportunity to be heard. If the court finds that the  
28 restriction is unlawful, impracticable, impossible to achieve,  
29 or wasteful, it may by order release the restriction in whole  
30 or in part. A release under this subsection may not change an  
31 endowment fund to a fund that is not an endowment fund.

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1           (d) A release under this subsection may not allow a  
2 fund to be used for purposes other than the educational  
3 purposes of the institution affected.

4           (e) This subsection does not limit the application of  
5 the doctrine of cy pres.

6           (9) UNIFORMITY OF APPLICATION AND CONSTRUCTION.--This  
7 act shall be applied and construed so as to effectuate its  
8 general purpose to make uniform the law with respect to the  
9 subject of this act among those states which enact it.

10           Section 14. Section 1011.94, Florida Statutes, is  
11 amended to read:

12           1011.94 Trust Fund for University Major Gifts.--

13           (1) There is established a Trust Fund for University  
14 Major Gifts. The purpose of the trust fund is to enable each  
15 university and New College to provide donors with an incentive  
16 in the form of matching grants for donations for the  
17 establishment of permanent endowments and sales tax exemption  
18 matching funds received pursuant to s. 212.08(5)(j), which  
19 must be invested, with the proceeds of the investment used to  
20 support university priorities as established by the university  
21 board of trustees libraries and instruction and research  
22 programs, as defined by the State Board of Education. All  
23 funds appropriated for the challenge grants, new donors, major  
24 gifts, sales tax exemption matching funds pursuant to s.  
25 212.08(5)(j), or eminent scholars program must be deposited  
26 into the trust fund and invested pursuant to s. 18.125 until  
27 the Board of Governors State Board of Education allocates the  
28 funds to universities to match private donations.  
29 Notwithstanding s. 216.301 and pursuant to s. 216.351, any  
30 undisbursed balance remaining in the trust fund and interest  
31 income accruing to the portion of the trust fund which is not

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1 | matched and distributed to universities must remain in the  
2 | trust fund and be used to increase the total funds available  
3 | for challenge grants. Funds deposited in the trust fund for  
4 | the sales tax exemption matching program authorized in s.  
5 | 212.08(5)(j), and interest earnings thereon, shall be  
6 | maintained in a separate account within the Trust Fund for  
7 | University Major Gifts, and may be used only to match  
8 | qualified sales tax exemptions that a certified business  
9 | designates for use by state universities and community  
10 | colleges to support research and development projects  
11 | requested by the certified business. The Board of Governors  
12 | ~~State Board of Education~~ may authorize any university to  
13 | encumber the state matching portion of a challenge grant from  
14 | funds available under s. 1011.45.

15 |       (2) The Board of Governors ~~State Board of Education~~  
16 | shall specify the process for submission, documentation, and  
17 | approval of requests for matching funds, accountability for  
18 | endowments and proceeds of endowments, allocations to  
19 | universities, restrictions on the use of the proceeds from  
20 | endowments, and criteria used in determining the value of  
21 | donations.

22 |       (3)(a) The Board of Governors ~~State Board of Education~~  
23 | shall allocate the amount appropriated to the trust fund to  
24 | each university and New College based on the amount of the  
25 | donation and the restrictions applied to the donation.

26 |       (b) Donations for a specific purpose must be matched  
27 | in the following manner:

28 |           1. Each university that raises at least \$100,000 but  
29 | no more than \$599,999 from a private source must receive a  
30 | matching grant equal to 50 percent of the private  
31 | contribution.

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1           2. Each university that raises a contribution of at  
2 least \$600,000 but no more than \$1 million from a private  
3 source must receive a matching grant equal to 70 percent of  
4 the private contribution.

5           3. Each university that raises a contribution in  
6 excess of \$1 million but no more than \$1.5 million from a  
7 private source must receive a matching grant equal to 75  
8 percent of the private contribution.

9           4. Each university that raises a contribution in  
10 excess of \$1.5 million but no more than \$2 million from a  
11 private source must receive a matching grant equal to 80  
12 percent of the private contribution.

13           5. Each university that raises a contribution in  
14 excess of \$2 million from a private source must receive a  
15 matching grant equal to 100 percent of the private  
16 contribution.

17           6. The amount of matching funds used to match a single  
18 gift in any given year shall be limited to \$3 million. The  
19 total amount of matching funds available for any single gift  
20 shall be limited to \$15 million, to be distributed in equal  
21 amounts of \$3 million per year over a period of 5 years.

22           (c) The Board of Governors ~~State Board of Education~~  
23 shall encumber state matching funds for any pledged  
24 contributions, pro rata, based on the requirements for state  
25 matching funds as specified for the particular challenge grant  
26 and the amount of the private donations actually received by  
27 the university for the respective challenge grant.

28           (4) Matching funds may be provided for contributions  
29 encumbered or pledged under the Eminent Scholars Act prior to  
30 July 1, 1994, and for donations or pledges of any amount equal  
31 to or in excess of the prescribed minimums which are pledged

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1 for the purpose of this section.

2 (5)(a) Each university foundation and New College  
3 Foundation shall establish a challenge grant account for each  
4 challenge grant as a depository for private contributions and  
5 state matching funds to be administered on behalf of the Board  
6 of Governors ~~State Board of Education~~, the university, or New  
7 College. State matching funds must be transferred to a  
8 university foundation or New College Foundation upon  
9 notification that the university or New College has received  
10 and deposited the amount specified in this section in a  
11 foundation challenge grant account.

12 (b) The foundation serving a university and New  
13 College Foundation each has the responsibility for the  
14 maintenance and investment of its challenge grant account and  
15 for the administration of the program on behalf of the  
16 university or New College, pursuant to procedures specified by  
17 the Board of Governors ~~State Board of Education~~. Each  
18 foundation shall include in its annual report to the Board of  
19 Governors ~~State Board of Education~~ information concerning  
20 collection and investment of matching gifts and donations and  
21 investment of the account.

22 (c) A donation of at least \$600,000 and associated  
23 state matching funds may be used to designate an Eminent  
24 Scholar Endowed Chair pursuant to procedures specified by the  
25 Board of Governors ~~State Board of Education~~.

26 (6) The donations, state matching funds, or proceeds  
27 from endowments established under this section may not be  
28 expended for the construction, renovation, or maintenance of  
29 facilities or for the support of intercollegiate athletics.

30 Section 15. Section 1004.383, Florida Statutes, is  
31 created to read:

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1           1004.383 Chiropractic medicine degree program at the  
2 Florida State University.--A chiropractic medicine degree  
3 program is authorized at Florida State University.

4           Section 16. Section 460.4062, Florida Statutes, is  
5 created to read:

6           460.4062 Chiropractic medicine faculty certificate.--

7           (1) The Department of Health may issue a chiropractic  
8 medicine faculty certificate without examination to an  
9 individual who remits a nonrefundable application fee, not to  
10 exceed \$100 as determined by rule of the Board of Chiropractic  
11 Medicine, and who demonstrates to the Board of Chiropractic  
12 Medicine that he or she meets the following requirements:

13           (a) Is a graduate of an accredited school or college  
14 of chiropractic accredited by the Council on Chiropractic  
15 Education.

16           (b) Holds a valid current license to practice  
17 chiropractic in another jurisdiction in the United States.

18           (c) Is at least 21 years of age and of good moral  
19 character.

20           (d) Has not committed any act or offense in any  
21 jurisdiction which would constitute the basis for discipline  
22 under chapter 456 or chapter 460.

23           (e) Has been offered and has accepted a full-time  
24 faculty appointment to teach in a program of chiropractic  
25 medicine at a state university.

26           (f) Provides a certification from the dean of the  
27 college that he or she has accepted the offer of a full-time  
28 faculty appointment to teach at Florida State University.

29           (2) The certificate shall authorize the holder to  
30 practice only in conjunction with his or her faculty position  
31 at Florida State University and its affiliated clinics that



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1 are registered with the Board of Chiropractic Medicine as  
2 sites at which holders of chiropractic medicine faculty  
3 certificates will be practicing. Such certificates shall  
4 automatically expire upon termination of the holder's  
5 relationship with the school or after a period of 2 years,  
6 whichever occurs first.

7       (3) The holder of a faculty certificate may engage in  
8 the practice of chiropractic medicine as permitted by this  
9 section.

10       (4) Notwithstanding subsection (2), a chiropractic  
11 medicine faculty certificate is renewable every 2 years by a  
12 holder who applies to the Board of Chiropractic Medicine on a  
13 form prescribed by the Board of Chiropractic Medicine and who  
14 continues to satisfy the requirements set forth in subsection  
15 (1).

16       Section 17. Section 1001.71(1),(3), and (4), Florida  
17 Statutes, as created by section 83, chapter 2002-387, Laws of  
18 Florida, and as amended by section 2, chapter 2002-188, Laws  
19 of Florida, is repealed.

20       Section 18. Remuneration of state university  
21 presidents; limitations.--

22       (1) DEFINITIONS.--As used in this section, the term:

23       (a) "Public funds" means funds appropriated from the  
24 General Revenue Fund, funds appropriated from state trust  
25 funds, tuition and fees, or any funds from a state university  
26 trust fund regardless of repository.

27       (b) "Remuneration" means salary, bonuses, and  
28 cash-equivalent compensation paid to a state university  
29 president by his or her employer for work performed, excluding  
30 health insurance benefits and retirement benefits.

31       (c) "Cash-equivalent compensation" means any benefit

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1 that may be assigned an equivalent cash value.

2 (2) LIMITATIONS ON COMPENSATION.--Notwithstanding any  
3 other law, resolution, or rule to the contrary, a state  
4 university president may not receive more than \$225,000 in  
5 remuneration annually from public funds. Only compensation, as  
6 such term is defined in section 121.02(22), Florida Statutes,  
7 provided to a state university president may be used in  
8 calculating benefits under chapter 121, Florida Statutes.

9 (3) EXCEPTIONS.--This section does not prohibit any  
10 party from providing cash or cash-equivalent compensation from  
11 funds that are not public funds to a state university  
12 president in excess of the limit in subsection (2). If a party  
13 is unable or unwilling to fulfill an obligation to provide  
14 cash or cash-equivalent compensation to a state university  
15 president as permitted under this subsection, public funds may  
16 not be used to fulfill such obligation.

17 (4) APPLICATION.--This section applies only to  
18 contracts or contract extensions that are executed or have an  
19 effective date on or after the effective date of this section.

20 Section 19. Present subsection (11) of section  
21 1009.21, Florida Statutes, is renumbered as subsection (12)  
22 and a new subsection (11) is added to that section to read:

23 1009.21 Determination of resident status for tuition  
24 purposes.--Students shall be classified as residents or  
25 nonresidents for the purpose of assessing tuition in community  
26 colleges and state universities.

27 (11) A student, other than a nonimmigrant alien within  
28 the meaning of Title 8 U.S.C. s. 1101(a)(15), who meets all of  
29 the following requirements shall be exempt from paying  
30 nonresident tuition at community colleges and state  
31 universities:

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1       (a) Has resided in Florida with a parent as defined in  
2 paragraph (1)(d) for at least 3 consecutive years immediately  
3 preceding the date the student received a high school diploma  
4 or its equivalent and has attended a Florida high school for  
5 at least 3 consecutive school years during such time.

6       (b) Has provided to a community college or a state  
7 university an affidavit stating that the student will file an  
8 application to become a permanent resident of the United  
9 States at the earliest opportunity he or she is eligible to do  
10 so.

11           Section 20. For the purpose of incorporating the  
12 amendment to section 1009.21, Florida Statutes, in a reference  
13 thereto, paragraph (a) of subsection (1) of section 1009.40,  
14 Florida Statutes, is reenacted to read:

15           1009.40 General requirements for student eligibility  
16 for state financial aid.--

17           (1)(a) The general requirements for eligibility of  
18 students for state financial aid awards consist of the  
19 following:

20           1. Achievement of the academic requirements of and  
21 acceptance at a state university or community college; a  
22 nursing diploma school approved by the Florida Board of  
23 Nursing; a Florida college, university, or community college  
24 which is accredited by an accrediting agency recognized by the  
25 State Board of Education; any Florida institution the credits  
26 of which are acceptable for transfer to state universities;  
27 any technical center; or any private technical institution  
28 accredited by an accrediting agency recognized by the State  
29 Board of Education.

30           2. Residency in this state for no less than 1 year  
31 preceding the award of aid for a program established pursuant

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1 to s. 1009.50, s. 1009.51, s. 1009.52, s. 1009.53, s. 1009.54,  
 2 s. 1009.56, s. 1009.57, s. 1009.60, s. 1009.62, s. 1009.63, s.  
 3 1009.68, s. 1009.72, s. 1009.73, s. 1009.76, s. 1009.77, or s.  
 4 1009.89. Residency in this state must be for purposes other  
 5 than to obtain an education. Resident status for purposes of  
 6 receiving state financial aid awards shall be determined in  
 7 the same manner as resident status for tuition purposes  
 8 pursuant to s. 1009.21 and rules of the State Board of  
 9 Education.

10           3. Submission of certification attesting to the  
 11 accuracy, completeness, and correctness of information  
 12 provided to demonstrate a student's eligibility to receive  
 13 state financial aid awards. Falsification of such information  
 14 shall result in the denial of any pending application and  
 15 revocation of any award currently held to the extent that no  
 16 further payments shall be made. Additionally, students who  
 17 knowingly make false statements in order to receive state  
 18 financial aid awards shall be guilty of a misdemeanor of the  
 19 second degree subject to the provisions of s. 837.06 and shall  
 20 be required to return all state financial aid awards  
 21 wrongfully obtained.

22           Section 21. Except as otherwise expressly provided in  
 23 this act, this act shall take effect upon becoming a law.

24  
 25

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

27 And the title is amended as follows:

28           Delete everything before the enacting clause

29  
 30 and insert:

31   A bill to be entitled

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1 An act relating to state universities; amending  
2 s. 17.076, F.S.; providing an exception to a  
3 public-records exemption; requiring a state  
4 university to maintain confidentiality of  
5 certain records; amending s. 110.161, F.S.;  
6 defining employee for purposes of the pretax  
7 benefits program to include state university  
8 employees; amending s. 112.215, F.S.; defining  
9 employee for purposes of the deferred  
10 compensation program to include employees of  
11 the state university board of trustees;  
12 amending s. 287.064, F.S.; authorizing the  
13 participation of state universities in  
14 consolidated financing of deferred-payment  
15 purchases; amending s. 440.38, F.S.; providing  
16 that a state university is a self-insurer for  
17 purposes of workers' compensation coverage;  
18 amending s. 1001.71, F.S.; revising membership  
19 and terms of office of the university boards of  
20 trustees; amending s. 1001.74, F.S.; providing  
21 that Department of Management Services retains  
22 authority over state university employees for  
23 purposes of the pretax benefits program;  
24 amending s. 1004.24, F.S.; providing for a  
25 financial audit pursuant to s. 11.45, F.S., for  
26 the self-insurance program; amending s.  
27 1004.26, F.S.; conforming university oversight  
28 of student government; amending s. 1009.21,  
29 F.S.; revising criteria to establish residency  
30 for tuition purposes; revising criteria for  
31 reclassification of residency for tuition

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1 purposes; establishing the Board of Governors;  
2 providing membership and terms of office;  
3 providing for members to be reimbursed for  
4 travel and per diem expenses; amending s.  
5 1009.24, F.S.; authorizing a nonrefundable  
6 admissions deposit; creating s. 1010.10, F.S.;  
7 creating the Florida Uniform Management of  
8 Institutional Funds Act; providing definitions;  
9 providing for expenditure of endowment funds by  
10 a governing board; providing for a standard of  
11 conduct; providing investment authority;  
12 providing for delegation of investment  
13 management; providing for investment costs;  
14 providing for uniformity of application and  
15 construction; amending s. 1011.94, F.S.;  
16 relating to the Trust Fund for University Major  
17 Gifts; revising provisions relating to use of  
18 proceeds; replacing references to State Board  
19 of Education with Board of Governors; providing  
20 limitations on matching funds; creating s.  
21 1004.383, F.S.; authorizing a chiropractic  
22 medicine degree program at Florida State  
23 University; creating s. 460.4062, F.S.;  
24 authorizing the Department of Health to issue a  
25 chiropractic medicine faculty certificate for a  
26 certain chiropractic faculty; authorizing a  
27 fee; providing requirements; providing for  
28 renewal and expiration of certificates;  
29 repealing s. 1001.71(1), (3), and (4), relating  
30 to a state university board of trustees;  
31 defining the terms "public funds,"

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1 "remuneration," and "cash equivalent  
2 compensation"; limiting the annual remuneration  
3 of a state university president to \$225,000  
4 from public funds; providing certain  
5 limitations on benefits for state university  
6 presidents under the Florida Retirement System;  
7 authorizing a party to provide cash or  
8 cash-equivalent compensation in excess of  
9 annual limit from nonpublic funds; eliminating  
10 any state obligation to provide cash or  
11 cash-equivalent compensation for state  
12 university presidents under certain  
13 circumstances; providing for prospective  
14 application; amending s. 1009.21, F.S.;  
15 providing an exemption from payment of  
16 nonresident tuition at community colleges and  
17 state universities for certain students meeting  
18 eligibility criteria; reenacting s.  
19 1009.40(1)(a), F.S., relating to general  
20 requirements for eligibility for state  
21 financial aid, to incorporate the amendment to  
22 s. 1009.21, F.S., in a reference; providing an  
23 effective date.

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