

CHAPTER 2010-78

House Bill No. 7237

An act relating to postsecondary education; amending s. 110.181, F.S.; conforming a cross-reference to changes made by the act; amending ss. 112.19 and 112.191, F.S.; requiring the Board of Governors of the State University System to adopt regulations rather than rules to implement certain educational benefits; amending s. 120.81, F.S.; providing that state universities are not required to file certain documents with the Administrative Procedures Committee; amending s. 282.0041, F.S.; revising definitions relating to information technology services to conform to changes made by the act; amending s. 282.703, F.S.; revising provisions relating to the participation of state universities in the SUNCOM Network; amending s. 282.706, F.S.; revising provisions relating to the use of the SUNCOM Network by state university libraries; amending s. 287.064, F.S.; conforming a cross-reference to changes made by the act; amending s. 1000.05, F.S.; requiring the Board of Governors to adopt regulations rather than rules relating to discrimination; amending s. 1001.705, F.S.; revising provisions relating to responsibility for the State University System under the State Constitution; deleting legislative findings and intent; providing the constitutional duties of the Board of Governors; providing the constitutional duties of the Legislature; deleting a duty relating to the participation of state universities in the SUNCOM Network; amending s. 1001.706, F.S.; revising powers and duties of the Board of Governors; providing that the Board of Governors has the authority to regulate the State University System and may adopt a regulation development procedure for the board and university boards of trustees to use in implementing their constitutional duties and responsibilities; authorizing the Board of Governors or its designee to adopt regulations; providing requirements for the regulation development procedure; providing requirements for judicial review of certain challenges; revising the Board of Governors' powers and duties relating to accountability and personnel; providing legislative intent that the Board of Governors align the missions of universities with certain factors; providing requirements for a mission alignment and strategic plan; affording opportunities to certain universities; amending s. 1001.72, F.S.; providing that the board of trustees is the university's contracting agent; creating s. 1004.015, F.S.; creating the Higher Education Coordinating Council; providing for membership; providing guiding principles for council recommendations to the Legislature, State Board of Education, and Board of Governors; amending s. 1004.03, F.S.; revising provisions relating to review and approval of new programs at state universities by the Board of Governors; requiring an annual report of the review of proposed new programs; eliminating the requirement that certain programs be approved by the Legislature; amending s. 1004.07, F.S.; requiring the Board of Governors to adopt regulations rather than rules relating to student withdrawal from courses due to military service; amending s. 1006.54,

F.S.; requiring university boards of trustees to adopt regulations rather than rules relating to documents distributed to libraries; amending s. 1006.60, F.S.; revising provisions relating to state university codes of conduct to authorize the adoption of regulations rather than rules; amending s. 1006.65, F.S.; requiring the Board of Governors to adopt regulations rather than rules relating to safety issues in courses offered by state universities; amending ss. 1007.264 and 1007.265, F.S.; requiring the Board of Governors to adopt regulations rather than rules relating to admission and graduation requirements for students with disabilities; amending s. 1009.24, F.S.; reorganizing certain provisions of law relating to state university student fees; authorizing the Board of Governors to approve flexible tuition policies requested by a university board of trustees; providing that certain fees be based on reasonable costs of services and used for certain purposes; authorizing the Board of Governors to approve a proposal from a university board of trustees to establish a new student fee, increase the cap for an existing fee, or implement flexible tuition policies; providing guidelines for review of proposals; requiring an annual report; prohibiting certain fees from exceeding a specified amount, being included in certain scholarship awards, and being used for certain purposes; requiring a fee committee to make recommendations relating to a new fee; providing restrictions on fee increases; requiring the Board of Governors to adopt regulations; amending s. 1009.26, F.S.; requiring the Board of Governors to adopt regulations rather than rules relating to fee waivers; amending s. 1010.04, F.S.; providing that the Board of Governors shall adopt regulations rather than rules for purchases and leases; amending s. 1010.62, F.S.; defining the term “auxiliary enterprise” for purposes of revenue bonds and debt; amending s. 1011.43, F.S.; requiring university boards of trustees to adopt regulations rather than rules for administration of certain scholarships and loans; amending s. 1011.90, F.S.; revising provisions relating to management information maintained by the Board of Governors; amending s. 1013.02, F.S.; requiring the Board of Governors to adopt regulations rather than rules to implement provisions of law relating to educational facilities; amending s. 1013.10, F.S.; authorizing regulations for the use of educational buildings and grounds; amending ss. 1013.12 and 1013.28, F.S.; requiring the Board of Governors to adopt regulations rather than rules relating to firesafety inspections and disposal of real property; amending s. 1013.30, F.S.; requiring the Board of Governors to adopt regulations rather than rules relating to university campus master plans; amending s. 1013.31, F.S.; requiring the Board of Governors to adopt regulations rather than rules for determining facility space needs; amending s. 1013.47, F.S.; requiring the Board of Governors to adopt regulations rather than rules relating to building standards; amending s. 1013.74, F.S.; authorizing the Board of Governors to adopt regulations rather than rules relating to authorization for fixed capital outlay projects; repealing s. 1001.74, F.S., relating to powers and duties of university boards of trustees; repealing s. 1004.21, F.S., relating to general provisions for state universities; repealing s. 1004.22(13), F.S., relating to rulemaking by a university board of trustees with respect to divisions of sponsored research; repealing s. 1004.38, F.S.,

relating to the master of science program in speech-language pathology at Florida International University; repealing s. 1004.381, F.S., relating to the bachelor of science nursing degree program at the University of West Florida; repealing s. 1004.3811, F.S., relating to the master of science degree programs in nursing and social work at the University of West Florida; repealing s. 1004.382, F.S., relating to the master’s in social work program at Florida Atlantic University; repealing s. 1004.383, F.S., relating to a chiropractic medicine degree program at Florida State University; repealing s. 1004.386, F.S., relating to a bachelor of science degree program in long-term care administration at Florida Gulf Coast University; repealing s. 1004.64, F.S., relating to the School of Engineering at Florida Gulf Coast University and specified bachelor’s degrees; providing legislative intent for the repeal of certain sections; requiring each state university to identify and submit to the Board of Governors a list of certain rules that have been superseded by regulations; providing for submission of such rules and certain rules of the Board of Governors to the Department of State; authorizing the Department of State to remove rules from the Florida Administrative Code; providing an effective date.

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

Section 1. Subsection (5) of section 110.181, Florida Statutes, is amended to read:

110.181 Florida State Employees’ Charitable Campaign.—

(5) PARTICIPATION OF STATE UNIVERSITIES.—Each university may elect to participate in the Florida State Employees’ Charitable Campaign, upon timely notice to the department. Each university may also conduct annual charitable fundraising drives for employees under the authority granted in s. ss. 1001.706 and 1001.74.

Section 2. Subsection (5) of section 112.19, Florida Statutes, is amended to read:

112.19 Law enforcement, correctional, and correctional probation officers; death benefits.—

(5) ~~The State Board of Education or the Board of Governors, as appropriate, shall adopt rules and procedures, and the Board of Governors shall adopt regulations and procedures, as are appropriate and necessary to implement the educational benefits provisions of this section.~~

Section 3. Subsection (5) of section 112.191, Florida Statutes, is amended to read:

112.191 Firefighters; death benefits.—

(5) ~~The State Board of Education or the Board of Governors, as appropriate, shall adopt rules and procedures, and the Board of Governors~~

shall adopt regulations and procedures, as are appropriate and necessary to implement the educational benefits provisions of this section.

Section 4. Paragraph (e) of subsection (1) of section 120.81, Florida Statutes, is amended to read:

120.81 Exceptions and special requirements; general areas.—

(1) EDUCATIONAL UNITS.—

(e) Educational units, other than ~~the state universities and the Florida School for the Deaf and the Blind,~~ shall not be required to make filings with the committee of the documents required to be filed by s. 120.54 or s. 120.55(1)(a)4.

Section 5. Subsections (1) and (26) of section 282.0041, Florida Statutes, are amended to read:

282.0041 Definitions.—As used in this chapter, the term:

(1) “Agency” has the same meaning as in s. 216.011(1)(qq), except that for purposes of this chapter, “agency” does not include university boards of trustees or state universities.

(26) “Total cost” means all costs associated with information technology projects or initiatives, including, but not limited to, value of hardware, software, service, maintenance, incremental personnel, and facilities. Total cost of a loan or gift of information technology resources to an agency includes the fair market value of the resources; ~~however, the total cost of loans or gifts of information technology to state universities to be used in instruction or research does not include fair market value.~~

Section 6. Subsections (1) and (3) of section 282.703, Florida Statutes, are amended, and subsection (4) is added to that section, to read:

282.703 SUNCOM Network; exemptions from the required use.—

(1) There is created within the department the SUNCOM Network, which shall be developed to serve as the state communications system for providing local and long-distance communications services to state agencies, political subdivisions of the state, municipalities, ~~state universities,~~ and nonprofit corporations pursuant to this part. The SUNCOM Network shall be developed to transmit all types of communications signals, including, but not limited to, voice, data, video, image, and radio. State agencies shall cooperate and assist in the development and joint use of communications systems and services.

(3) All state agencies ~~and state universities~~ shall use the SUNCOM Network for agency ~~and state university~~ communications services as the services become available; however, no agency ~~or university~~ is relieved of responsibility for maintaining communications services necessary for

effective management of its programs and functions. The department may provide such communications services to a state university if requested by the university. If a SUNCOM Network service does not meet the communications requirements of an agency ~~or university~~, the agency ~~or university~~ shall notify the department in writing and detail the requirements for that communications service. If the department is unable to meet an agency's ~~or university's~~ requirements by enhancing SUNCOM Network service, the department may grant the agency ~~or university~~ an exemption from the required use of specified SUNCOM Network services.

(4) This section may not be construed to require a state university to use SUNCOM Network communication services.

Section 7. Section 282.706, Florida Statutes, is amended to read:

282.706 Use of SUNCOM Network by libraries.—The department may provide SUNCOM Network services to any library in the state, including libraries in public schools, community colleges, state universities, and nonprofit private postsecondary educational institutions, and libraries owned and operated by municipalities and political subdivisions. This section may not be construed to require a state university library to use SUNCOM Network services.

Section 8. Subsection (1) of section 287.064, Florida Statutes, is amended to read:

287.064 Consolidated financing of deferred-payment purchases.—

(1) The Division of Bond Finance of the State Board of Administration and the Chief Financial Officer shall plan and coordinate deferred-payment purchases made by or on behalf of the state or its agencies or by or on behalf of state universities or state community colleges participating under this section pursuant to s. 1001.706(7) ~~s. 1001.74(6)~~ or s. 1001.64(26), respectively. The Division of Bond Finance shall negotiate and the Chief Financial Officer shall execute agreements and contracts to establish master equipment financing agreements for consolidated financing of deferred-payment, installment sale, or lease purchases with a financial institution or a consortium of financial institutions. As used in this act, the term “deferred-payment” includes installment sale and lease-purchase.

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

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

(c) The interest rate component of any master equipment financing agreement shall be deemed to comply with the interest rate limitation imposed in s. 287.063 so long as the interest rate component of every

interagency, state university, or community college agreement entered into under such master equipment financing agreement complies with the interest rate limitation imposed in s. 287.063. Such interest rate limitation does not apply when the payment obligation under the master equipment financing agreement is rated by a nationally recognized rating service in any one of the three highest classifications, which rating services and classifications are determined pursuant to rules adopted by the Chief Financial Officer.

Section 9. Paragraph (b) of subsection (5) of section 1000.05, Florida Statutes, is amended to read:

1000.05 Discrimination against students and employees in the Florida K-20 public education system prohibited; equality of access required.—

(5)

(b) The Board of Governors shall adopt regulations rules to implement this section as it relates to state universities.

Section 10. Section 1001.705, Florida Statutes, is amended to read:

1001.705 Responsibility for the State University System under s. 7, Art. IX of the State Constitution; ~~legislative finding and intent.~~—

~~(1) LEGISLATIVE FINDINGS.—~~

~~(1)(a)~~ DEFINITIONS.—For purposes of this act, the term:

~~(a)1.~~ “Board of Governors” as it relates to the State University System and as used in s. 7, Art. IX of the State Constitution and Title XLVIII and other sections of the Florida Statutes is the Board of Governors of the State University System which belongs to and is part of the executive branch of state government.

~~(b)2.~~ “Institutions of higher learning” as used in the State Constitution and the Florida Statutes includes publicly funded state universities.

~~(c)3.~~ “Public officer” as used in the Florida Statutes includes members of the Board of Governors.

~~(d)4.~~ “State university” or “state universities” as used in the State Constitution and the Florida Statutes are agencies of the state which belong to and are part of the executive branch of state government. This definition of state universities as state agencies is only for the purposes of the delineation of constitutional lines of authority. Statutory exemptions for state universities from statutory provisions relating to state agencies that are in effect on the effective date of this act remain in effect and are not repealed by virtue of this definition of state universities.

(2)(b) CONSTITUTIONAL DUTIES OF THE BOARD OF GOVERNORS OF THE STATE UNIVERSITY SYSTEM.—In accordance with s. 7, Art. IX of the State Constitution, the Board of Governors of the State University System has the duty to operate, regulate, control, and be fully responsible for the management of the whole publicly funded State University System and the board, or the board’s designee, has responsibility for:

(a)1. Defining the distinctive mission of each constituent university.

(b)2. Defining the articulation of each constituent university in conjunction with the Legislature’s authority over the public schools and community colleges.

(c)3. Ensuring the well-planned coordination and operation of the State University System.

(d)4. Avoiding wasteful duplication of facilities or programs within the State University System.

(e)5. Accounting for expenditure of funds appropriated by the Legislature for the State University System as provided by law.

(f)6. Submitting a budget request for legislative appropriations for the institutions under the supervision of the board as provided by law.

(g)7. Adopting strategic plans for the State University System and each constituent university.

(h)8. Approving, reviewing, and terminating degree programs of the State University System.

(i)9. Governing admissions to the state universities.

(j)10. Serving as the public employer to all public employees of state universities for collective bargaining purposes.

(k)11. Establishing a personnel system for all state university employees; however, the Department of Management Services shall retain authority over state university employees for programs established in ss. 110.123, 110.1232, 110.1234, 110.1238, and 110.161, and in chapters 121, 122, and 238.

(l)12. Complying with, and enforcing for institutions under the board’s jurisdiction, all applicable local, state, and federal laws.

(3)(e) CONSTITUTIONAL DUTIES OF THE LEGISLATURE.—In accordance with s. 3, Art. II of the State Constitution, which establishes the separation of powers of three branches of government; s. 1, Art. III of the State Constitution, which vests the legislative power of the state in the Legislature; s. 8, Art. III of the State Constitution, which provides the exclusive executive veto power of the Governor and the exclusive veto

override power of the Legislature; s. 19, Art. III of the State Constitution, which requires the Legislature to enact state planning and budget processes and requirements for budget requests by general law; s. 1, Art. VII of the State Constitution, which requires that the authority to expend state funds be by general law enacted by the Legislature; and s. 1, Art. IX of the State Constitution, which requires the Legislature to make adequate provision by law for the “establishment, maintenance, and operation of institutions of higher learning,” the Legislature has the following responsibilities:

(a)1. Making provision by law for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.

(b)2. Appropriating all state funds through the General Appropriations Act or other law.

(c)3. Establishing tuition and fees.

(d)4. Establishing policies relating to merit and need-based student financial aid.

(e)5. Establishing policies relating to expenditure of, accountability for, and management of funds appropriated by the Legislature or revenues authorized by the Legislature. This includes, but is not limited to, policies relating to: budgeting; deposit of funds; investments; accounting; purchasing, procurement, and contracting; insurance; audits; maintenance and construction of facilities; property; bond financing; leasing; and information reporting.

(f)6. Maintaining the actuarial and fiscal soundness of centrally administered state systems by requiring state universities to continue to participate in programs such as the Florida Retirement System, the state group health insurance programs, ~~the state telecommunications and data network (SUNCOM),~~ and the state casualty insurance program.

(g)7. Establishing and regulating the use of state powers and protections, including, but not limited to, eminent domain, certified law enforcement, and sovereign immunity.

(h)8. Establishing policies relating to the health, safety, and welfare of students, employees, and the public while present on the campuses of institutions of higher learning.

~~(2) LEGISLATIVE INTENT. It is the intent of the Legislature to reenact laws relating to the Board of Governors of the State University System, the university boards of trustees, the State Board of Education, and the postsecondary education system in accordance with the findings of this act.~~

Section 11. Section 1001.706, Florida Statutes, is amended to read:

1001.706 Powers and duties of the Board of Governors.—

(1) GENERAL PROVISIONS.—

(a) For each constituent university, the Board of Governors, or the board’s designee, shall be responsible for cost-effective policy decisions appropriate to the university’s mission, the implementation and maintenance of high-quality education programs within law, the measurement of performance, the reporting of information, and the provision of input regarding state policy, budgeting, and education standards.

(2) REGULATORY AUTHORITY.—

(a) Pursuant to s. 7, Art. IX of the State Constitution, the Board of Governors has the authority to regulate the State University System and may adopt a regulation development procedure for the Board of Governors and the university boards of trustees to use in implementing their constitutional duties and responsibilities.

(b) The Board of Governors shall be subject to the provisions of adopt rules pursuant to chapter 120 when acting pursuant to statutory authority derived from the Legislature, except that: the Board of Governors may adopt regulations if expressly authorized or required by law rules pursuant to chapter 120 when exercising the powers, duties, and authority granted by s. 7, Art. IX of the State Constitution. Such regulations must be adopted pursuant to a development procedure that complies with paragraph (c). If the Board of Governors delegates a power or duty to a university board of trustees as the designee, the authority to adopt rules or regulations is included in the delegation. If the Board of Governors delegates a statutory power or duty to a university board of trustees, the university board of trustees shall be subject to the provisions of chapter 120 but may adopt regulations to the same extent as the Board of Governors under this subsection.

(c) The development procedure for regulations authorized or required by law must provide for notice to the public of, and an opportunity for public comment on, the proposed adoption, amendment, or repeal of a regulation; a process for a substantially affected person to challenge a statement of general applicability that has not been properly adopted as a regulation; a process for a substantially affected person to challenge an unlawful regulation; and a process for the adoption of and challenges to emergency regulations that are necessary to protect the public interest in the emergency. Judicial review shall be sought in the appellate district in which the headquarters of the Board of Governors is located or in which the main campus of the state university is located, as applicable. The regulation development procedure shall be published prominently on the websites of the Board of Governors and the state universities.

(3)(2) POWERS AND DUTIES RELATING TO ORGANIZATION AND OPERATION OF STATE UNIVERSITIES.—

(a) The Board of Governors, or the board's designee, shall develop guidelines and procedures related to data and technology, including information systems, communications systems, computer hardware and software, and networks.

(b) The Board of Governors shall develop guidelines relating to divisions of sponsored research, pursuant to the provisions of s. 1004.22, to serve the function of administration and promotion of the programs of research.

(c) The Board of Governors shall prescribe conditions for direct-support organizations and university health services support organizations to be certified and to use university property and services. Conditions relating to certification must provide for audit review and oversight by the Board of Governors.

(d) The Board of Governors shall develop guidelines for supervising faculty practice plans for the academic health science centers.

(e) The Board of Governors shall ensure that students at state universities have access to general education courses as provided in the statewide articulation agreement, pursuant to s. 1007.23.

(f) The Board of Governors shall approve baccalaureate degree programs that require more than 120 semester credit hours of coursework prior to such programs being offered by a state university. At least half of the required coursework for any baccalaureate degree must be offered at the lower-division level, except in program areas approved by the Board of Governors.

(g) The Board of Governors, or the board's designee, shall adopt a written antihazing policy, appropriate penalties for violations of such policy, and a program for enforcing such policy.

(h) The Board of Governors, or the board's designee, may establish a uniform code of conduct and appropriate penalties for violations of its ~~regulations~~ rules by students and student organizations, including ~~regulations~~ rules governing student academic honesty. Such penalties, unless otherwise provided by law, may include reasonable fines, the withholding of diplomas or transcripts pending compliance with ~~regulations~~ rules or payment of fines, and the imposition of probation, suspension, or dismissal.

~~(4)(3)~~ POWERS AND DUTIES RELATING TO FINANCE.—

(a) The Board of Governors, or the board's designee, shall account for expenditures of all state, local, federal, and other funds. Such accounting systems shall have appropriate audit and internal controls in place that will enable the constituent universities to satisfactorily and timely perform all accounting and reporting functions required by state and federal law and rules.

(b) The Board of Governors shall prepare the legislative budget requests for the State University System, including a request for fixed capital outlay,

and submit them to the State Board of Education for inclusion in the K-20 legislative budget request. The Board of Governors shall provide the state universities with fiscal policy guidelines, formats, and instruction for the development of individual university budget requests.

(c) The Board of Governors, or the board's designee, shall establish tuition and fees pursuant to ss. 1009.24 and 1009.26.

(d) The Board of Governors, or the board's designee, is authorized to secure comprehensive general liability insurance pursuant to s. 1004.24.

(5)(4) POWERS AND DUTIES RELATING TO ACCOUNTABILITY.—

(a) The Legislature intends that the Board of Governors shall align the missions of each constituent university with the academic success of its students; the national reputation of its faculty and its academic and research programs; the quantity of externally generated research, patents, and licenses; and the strategic and accountability plans required in paragraphs (b) and (c). The mission alignment and strategic plan shall consider peer institutions at the constituent universities. The mission alignment and strategic plan shall acknowledge that universities that have a national and international impact have the greatest capacity to promote the state's economic development through: new discoveries, patents, licenses, and technologies that generate state businesses of global importance; research achievements through external grants and contracts that are comparable to nationally recognized and ranked universities; the creation of a resource rich academic environment that attracts high-technology business and venture capital to the state; and this generation's finest minds focusing on solving the state's economic, social, environmental, and legal problems in the areas of life sciences, water, sustainability, energy, and health care. A nationally recognized and ranked university that has a global perspective and impact shall be afforded the opportunity to enable and protect the university's competitiveness on the global stage in fair competition with other institutions of other states in the highest Carnegie Classification.

(b)(a) The Board of Governors shall develop a strategic plan specifying goals and objectives for the State University System and each constituent university.

(c)(b) The Board of Governors shall develop an accountability plan for the State University System and each constituent university.

(d)(e) The Board of Governors shall maintain an effective information system to provide accurate, timely, and cost-effective information about each university. The board shall continue to collect and maintain, at a minimum, the management information databases as such information databases existed on June 30, 2002.

(e)(d) If the Board of Governors of the State University System determines that a state university board of trustees is unwilling or unable

to address substantiated allegations made by any person relating to waste, fraud, or financial mismanagement within the state university, the Office of the Inspector General shall investigate the allegations.

~~(6)~~(5) POWERS AND DUTIES RELATING TO PERSONNEL.—

(a) The Board of Governors, or the board's designee, shall establish the personnel program for all employees of a state university. The Board of Governors shall confirm the presidential selection by a university board of trustees as a means of acknowledging that system cooperation is expected except the president.

(b) The Department of Management Services shall retain authority over state university employees for programs established in ss. 110.123, 110.1232, 110.1234, 110.1238, and 110.161 and in chapters 121, 122, and 238. Unless specifically authorized by law, neither the Board of Governors nor a state university may offer group insurance programs for employees as a substitute for or as an alternative to the health insurance programs offered pursuant to chapter 110.

(c) Except as otherwise provided by law, university employees are public employees for purposes of chapter 112 and any payment for travel and per diem expenses shall not exceed the level specified in s. 112.061.

(d) The Board of Governors, or the board's designee, may not enter into an employment contract that requires ~~it the board~~ to pay an employee an amount from state funds in excess of 1 year of the employee's annual salary for termination, buyout, or any other type of contract settlement. This paragraph does not prohibit the payment of leave and benefits accrued by the employee in accordance with the board's or designee's leave and benefits policies before the contract terminates.

~~(7)~~(6) POWERS AND DUTIES RELATING TO PROPERTY.—

(a) The Board of Governors shall develop guidelines for university boards of trustees relating to the acquisition of real and personal property and the sale and disposal thereof and the approval and execution of contracts for the purchase, sale, lease, license, or acquisition of commodities, goods, equipment, contractual services, leases of real and personal property, and construction. The acquisition may include purchase by installment or lease-purchase. Such contracts may provide for payment of interest on the unpaid portion of the purchase price. Title to all real property acquired prior to January 7, 2003, and to all real property acquired with funds appropriated by the Legislature shall be vested in the Board of Trustees of the Internal Improvement Trust Fund and shall be transferred and conveyed by it. Notwithstanding any other provisions of this subsection, each board of trustees shall comply with the provisions of s. 287.055 for the procurement of professional services as defined therein. Any acquisition pursuant to this paragraph is subject to the provisions of s. 1010.62.

(b) The Board of Governors shall develop guidelines for university boards of trustees relating to the use, maintenance, protection, and control of university-owned or university-controlled buildings and grounds, property and equipment, name, trademarks and other proprietary marks, and the financial and other resources of the university. Such authority may include placing restrictions on activities and on access to facilities, firearms, food, tobacco, alcoholic beverages, distribution of printed materials, commercial solicitation, animals, and sound. The authority provided the board of trustees in this subsection includes the prioritization of the use of space, property, equipment, and resources and the imposition of charges for those items.

(c) The Board of Governors, or the board's designee, shall administer a program for the maintenance and construction of facilities pursuant to chapter 1013.

(d) The Board of Governors, or the board's designee, shall ensure compliance with the provisions of s. 287.09451 for all procurement and ss. 255.101 and 255.102 for construction contracts, and rules adopted pursuant thereto, relating to the utilization of minority business enterprises, except that procurements costing less than the amount provided for in CATEGORY FIVE as provided in s. 287.017 shall not be subject to s. 287.09451.

(e) Notwithstanding the provisions of s. 253.025 but subject to the provisions of s. 1010.62, the Board of Governors, or the board's designee, may, with the consent of the Board of Trustees of the Internal Improvement Trust Fund, sell, convey, transfer, exchange, trade, or purchase real property and related improvements necessary and desirable to serve the needs and purposes of the university.

1. The Board of Governors, or the board's designee, may secure appraisals and surveys. The Board of Governors, or the board's designee, shall comply with the rules of the Board of Trustees of the Internal Improvement Trust Fund in securing appraisals. Whenever the Board of Governors, or the board's designee, finds it necessary for timely property acquisition, it may contract, without the need for competitive selection, with one or more appraisers whose names are contained on the list of approved appraisers maintained by the Division of State Lands in the Department of Environmental Protection.

2. The Board of Governors, or the board's designee, may negotiate and enter into an option contract before an appraisal is obtained. The option contract must state that the final purchase price may not exceed the maximum value allowed by law. The consideration for such an option contract may not exceed 10 percent of the estimate obtained by the Board of Governors, or the board's designee, or 10 percent of the value of the parcel, whichever is greater, unless otherwise authorized by the Board of Governors or the board's designee.

3. This paragraph is not intended to abrogate in any manner the authority delegated to the Board of Trustees of the Internal Improvement Trust Fund or the Division of State Lands to approve a contract for purchase of state lands or to require policies and procedures to obtain clear legal title to parcels purchased for state purposes. Title to property acquired by a university board of trustees prior to January 7, 2003, and to property acquired with funds appropriated by the Legislature shall vest in the Board of Trustees of the Internal Improvement Trust Fund.

(f) The Board of Governors, or the board's designee, shall prepare and adopt a campus master plan pursuant to s. 1013.30.

(g) The Board of Governors, or the board's designee, shall prepare, adopt, and execute a campus development agreement pursuant to s. 1013.30.

(h) Notwithstanding the provisions of s. 216.351, the Board of Governors, or the board's designee, may authorize the rent or lease of parking facilities provided that such facilities are funded through parking fees or parking fines imposed by a university. The Board of Governors, or the board's designee, may authorize a university board of trustees to charge fees for parking at such rented or leased parking facilities.

~~(8)(7)~~ COMPLIANCE WITH LAWS, RULES, REGULATIONS, AND REQUIREMENTS.—The Board of Governors has responsibility for compliance with state and federal laws, rules, regulations, and requirements.

~~(9)(8)~~ COOPERATION WITH OTHER BOARDS.—The Board of Governors shall implement a plan for working on a regular basis with the State Board of Education, the Commission for Independent Education, the university boards of trustees, representatives of the community college boards of trustees, representatives of the private colleges and universities, and representatives of the district school boards to achieve a seamless education system.

~~(10)(9)~~ The Board of Governors is prohibited from assessing any fee on state universities, unless specifically authorized by law.

Section 12. Subsection (3) is added to section 1001.72, Florida Statutes, to read:

1001.72 University boards of trustees; boards to constitute a corporation.

(3) Each board of trustees constitutes the contracting agent of the university.

Section 13. Section 1004.015, Florida Statutes, is created to read:

1004.015 Higher Education Coordinating Council.—

(1) The Higher Education Coordinating Council is created for the purposes of identifying unmet needs and facilitating solutions to disputes

regarding the creation of new degree programs and the establishment of new institutes, campuses, or centers.

(2) Members of the council shall include:

(a) The Commissioner of Education.

(b) The Chancellor of the State University System.

(c) The Chancellor of the Florida College System.

(d) The executive director of the Commission for Independent Education.

(e) The president of the Independent Colleges and Universities of Florida.

(f) Two representatives of the business community, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives, who are committed to developing and enhancing world class workforce infrastructure necessary for Florida's citizens to compete and prosper in the ever-changing economy of the 21st century.

(3) The council shall serve as an advisory board to the Legislature, the State Board of Education, and the Board of Governors. Recommendations of the council shall be consistent with the following guiding principles:

(a) To achieve within existing resources a seamless academic educational system that fosters an integrated continuum of kindergarten through graduate school education for Florida's students.

(b) To promote consistent education policy across all educational delivery systems, focusing on students.

(c) To promote substantially improved articulation across all educational delivery systems.

(d) To promote a system that maximizes educational access and allows the opportunity for a high-quality education for all Floridians.

(e) To promote a system of coordinated and consistent transfer of credit and data collection for improved accountability purposes between the educational delivery systems.

(4) The Board of Governors shall provide administrative support for the council.

Section 14. Subsections (1) and (3) of section 1004.03, Florida Statutes, are amended to read:

1004.03 Program approval.—

(1) ~~The Board of Governors shall establish criteria for the review and approval of proposed new programs at state universities to ensure the well-planned development, coordination, and operation of the State University System and to avoid wasteful duplication of facilities or programs. The Board of Governors shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, and the Governor listing the reviews conducted and the results of each review. that will receive any support from tuition and fees assessed pursuant to s. 1009.24 or from funds appropriated by the Legislature through the General Appropriations Act or other law. These criteria include, but are not limited to, the following:~~

~~(a) New programs may not be approved unless the same objectives cannot be met through use of educational technology.~~

~~(b) Unnecessary duplication of programs offered by public and independent institutions shall be avoided.~~

~~(c) Cooperative programs, particularly within regions, should be encouraged.~~

~~(d) New programs shall be approved only if they are consistent with the strategic plan adopted by the Board of Governors.~~

~~(e) A new graduate-level program or professional-level program may be approved if:~~

~~1. The university has taken into account the offerings of its counterparts, including institutions in other sectors, particularly at the regional level.~~

~~2. The addition of the program will not alter the emphasis on undergraduate education.~~

~~3. The regional need and demand for the program was addressed and the community needs are obvious.~~

~~(3) New colleges, schools, or functional equivalents of any program that leads to a degree that is offered as a credential for a specific license granted under the Florida Statutes or the State Constitution and that will receive any support from tuition and fees or from funds appropriated by the Legislature through the General Appropriations Act or other law shall not be established without the specific approval of the Legislature.~~

Section 15. Subsection (4) of section 1004.07, Florida Statutes, is amended to read:

1004.07 Student withdrawal from courses due to military service; effect.

(4) Policies of state university boards of trustees shall be established by regulation ~~rule~~ and pursuant to guidelines of the Board of Governors.

Section 16. Section 1006.54, Florida Statutes, is amended to read:

1006.54 Universities; public documents distributed to libraries.—The general library of each state university may receive copies of reports of state officials, departments, and institutions and all other state documents published by the state. Each officer of the state empowered by law to distribute such public documents may transmit without charge, except for payment of shipping costs, the number of copies of each public document desired upon requisition from the librarian. It is the duty of the library to keep public documents in a convenient form accessible to the public. The library, under regulations rules formulated by the university board of trustees, is authorized to exchange documents for those of other states, territories, and countries.

Section 17. Section 1006.60, Florida Statutes, is amended to read:

1006.60 Codes of conduct; disciplinary measures; ~~rulemaking~~ authority to adopt rules or regulations.—

(1) Each community college ~~and state university~~ may adopt, by rule, and each state university may adopt, by regulation, codes of conduct and appropriate penalties for violations of rules or regulations by students, to be administered by the institution. Such penalties, unless otherwise provided by law, may include: reprimand; restitution; fines; withholding of diplomas or transcripts pending compliance with rules or regulations, completion of any student judicial process or sanction, or payment of fines; restrictions on the use of or removal from campus facilities; community service; educational requirements; and the imposition of probation, suspension, dismissal, or expulsion.

(2) Each community college ~~and state university~~ may adopt, by rule, and each state university may adopt, by regulation, a code of conduct and appropriate penalties for violations of rules or regulations by student organizations, to be administered by the institution. Such penalties, unless otherwise provided by law, may include: reprimand; restitution; suspension, cancellation, or revocation of the registration or official recognition of a student organization; and restrictions on the use of, or removal from, campus facilities.

(3) Sanctions authorized by such codes of conduct may be imposed only for acts or omissions in violation of rules or regulations adopted by the institution, including rules or regulations adopted under this section, rules of the State Board of Education, rules or regulations of ~~or~~ the Board of Governors regarding the State University System, county and municipal ordinances, and the laws of this state, the United States, or any other state.

(4) Each community college ~~and state university~~ may establish and adopt, by rule, and each state university may establish and adopt, by regulation, codes of appropriate penalties for violations of rules or regulations governing student academic honesty. Such penalties, unless otherwise provided by law, may include: reprimand; reduction of grade; denial of academic credit; invalidation of university credit or of the degree based upon

such credit; probation; suspension; dismissal; or expulsion. In addition to any other penalties that may be imposed, an individual may be denied admission or further registration, and the institution may invalidate academic credit for work done by a student and may invalidate or revoke the degree based upon such credit if it is determined that the student has made false, fraudulent, or incomplete statements in the application, residence affidavit, or accompanying documents or statements in connection with, or supplemental to, the application for admission to or graduation from the institution.

(5) Each community college ~~and state university~~ shall adopt rules and each state university shall adopt regulations for the lawful discipline of any student who intentionally acts to impair, interfere with, or obstruct the orderly conduct, processes, and functions of the institution. Said rules or regulations may apply to acts conducted on or off campus when relevant to such orderly conduct, processes, and functions.

Section 18. Subsection (2) of section 1006.65, Florida Statutes, is amended to read:

1006.65 Safety issues in courses offered by public postsecondary educational institutions.—

(2) The Board of Governors shall adopt regulations ~~rules~~ to ensure that policies and procedures are in place to protect the health and safety of students, instructional personnel, and visitors who participate in courses offered by a state university.

Section 19. Subsection (3) of section 1007.264, Florida Statutes, is amended to read:

1007.264 Persons with disabilities; admission to postsecondary educational institutions; substitute requirements; rules and regulations.—

(3) The Board of Governors, in consultation with the State Board of Education, shall adopt regulations ~~rules~~ to implement this section for state universities and shall develop substitute admission requirements where appropriate.

Section 20. Subsection (3) of section 1007.265, Florida Statutes, is amended to read:

1007.265 Persons with disabilities; graduation, study program admission, and upper-division entry; substitute requirements; rules and regulations.—

(3) The Board of Governors, in consultation with the State Board of Education, shall adopt regulations ~~rules~~ to implement this section for state universities and shall develop substitute requirements where appropriate.

Section 21. Section 1009.24, Florida Statutes, is amended to read:

1009.24 State university student fees.—

(1) This section applies to students enrolled in college credit programs at state universities.

(2) All students shall be charged fees except students who are exempt from fees or students whose fees are waived.

(3) All moneys from tuition and fees shall be deposited pursuant to s. 1011.42.

(4)(a) Effective January 1, 2008, the resident undergraduate tuition for lower-level and upper-level coursework shall be \$77.39 per credit hour.

(b) Beginning with the 2008-2009 fiscal year and each year thereafter, the resident undergraduate tuition per credit hour shall increase at the beginning of each fall semester at a rate equal to inflation, unless otherwise provided in the General Appropriations Act. The Office of Economic and Demographic Research shall report the rate of inflation to the President of the Senate, the Speaker of the House of Representatives, the Governor, and the Board of Governors each year prior to March 1. For purposes of this paragraph, the rate of inflation shall be defined as the rate of the 12-month percentage change in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, or successor reports as reported by the United States Department of Labor, Bureau of Labor Statistics, or its successor for December of the previous year. In the event the percentage change is negative, the resident undergraduate tuition shall remain at the same level as the prior fiscal year.

(c) The Board of Governors, or the board's designee, may establish tuition for graduate and professional programs, and out-of-state fees for all programs. Except as otherwise provided in this section, the sum of tuition and out-of-state fees assessed to nonresident students must be sufficient to offset the full instructional cost of serving such students. However, adjustments to out-of-state fees or tuition for graduate programs and professional programs may not exceed 15 percent in any year.

(d) The Board of Governors may consider and approve flexible tuition policies as requested by a university board of trustees in accordance with the provisions of subsection (15) only to the extent such policies are in alignment with the mission of the university and do not increase the state's fiscal liability or obligations, including, but not limited to, any fiscal liability or obligation for programs authorized under ss. 1009.53-1009.538 and ss. 1009.97-1009.984.

~~(e)~~(d) The sum of the activity and service, health, and athletic fees a student is required to pay to register for a course shall not exceed 40 percent of the tuition established in law or in the General Appropriations Act. No university shall be required to lower any fee in effect on the effective date of this act in order to comply with this subsection. Within the 40 percent cap,

universities may not increase the aggregate sum of activity and service, health, and athletic fees more than 5 percent per year unless specifically authorized in law or in the General Appropriations Act. A university may increase its athletic fee to defray the costs associated with changing National Collegiate Athletic Association divisions. Any such increase in the athletic fee may exceed both the 40 percent cap and the 5 percent cap imposed by this subsection. Any such increase must be approved by the athletic fee committee in the process outlined in subsection (12) and cannot exceed \$2 per credit hour. Notwithstanding the provisions of ss. 1009.534, 1009.535, and 1009.536, that portion of any increase in an athletic fee pursuant to this subsection that causes the sum of the activity and service, health, and athletic fees to exceed the 40 percent cap or the annual increase in such fees to exceed the 5 percent cap shall not be included in calculating the amount a student receives for a Florida Academic Scholars award, a Florida Medallion Scholars award, or a Florida Gold Seal Vocational Scholars award.

(f)(e) This subsection does not prohibit a university from increasing or assessing optional fees related to specific activities if payment of such fees is not required as a part of registration for courses.

(5) A university may implement a differential out-of-state fee in accordance with regulations developed by the Board of Governors for the following:

(a) A student from another state that borders the service area of the university.

(b) A graduate student who has been determined to be a nonresident for tuition purposes pursuant to s. 1009.21 and has a .25 full-time equivalent appointment or greater as a graduate assistant, graduate research assistant, graduate teaching assistant, graduate research associate, or graduate teaching associate.

(c) A graduate student who has been determined to be a nonresident for tuition purposes pursuant to s. 1009.21 and is receiving a full fellowship.

(6) Students who are enrolled in Programs in Medical Sciences are considered graduate students for the purpose of enrollment and student fees.

(7) A university board of trustees is authorized to collect for financial aid purposes an amount not to exceed 5 percent of the tuition and out-of-state fee. The revenues from fees are to remain at each campus and replace existing financial aid fees. Such funds shall be disbursed to students as quickly as possible. A minimum of 75 percent of funds from the student financial aid fee shall be used to provide financial aid based on absolute need. The Board of Governors shall develop criteria for making financial aid awards. Each university shall report annually to the Board of Governors and the Department of Education on the revenue collected pursuant to this subsection, the amount carried forward, the criteria used to make awards, the amount and number of awards for each criterion, and a delineation of the

distribution of such awards. The report shall include an assessment by category of the financial need of every student who receives an award, regardless of the purpose for which the award is received. Awards which are based on financial need shall be distributed in accordance with a nationally recognized system of need analysis approved by the Board of Governors. An award for academic merit shall require a minimum overall grade point average of 3.0 on a 4.0 scale or the equivalent for both initial receipt of the award and renewal of the award.

(8) The Capital Improvement Trust Fund fee is established as \$2.44 per credit hour per semester. The building fee is established as \$2.32 per credit hour per semester.

(9) Each university board of trustees is authorized to establish separate activity and service, health, and athletic fees. When duly established, the fees shall be collected as component parts of tuition and fees and shall be retained by the university and paid into the separate activity and service, health, and athletic funds. Notwithstanding any other provision of law to the contrary, a university may transfer revenues derived from the fees authorized pursuant to this subsection to a university direct-support organization of the university to be used only for the purpose of paying and securing debt on projects approved pursuant to s. 1010.62 and pursuant to a written agreement approved by the Board of Governors. The amount transferred may not exceed the amount authorized for annual debt service pursuant to s. 1010.62.

(10)(a) Each university board of trustees shall establish a student activity and service fee on the main campus of the university. The university board may also establish a student activity and service fee on any branch campus or center. Any subsequent increase in the activity and service fee must be recommended by an activity and service fee committee, at least one-half of whom are students appointed by the student body president. The remainder of the committee shall be appointed by the university president. A chairperson, appointed jointly by the university president and the student body president, shall vote only in the case of a tie. The recommendations of the committee shall take effect only after approval by the university president, after consultation with the student body president, with final approval by the university board of trustees. An increase in the activity and service fee may occur only once each fiscal year and must be implemented beginning with the fall term. The Board of Governors is responsible for adopting the regulations rules and timetables necessary to implement this fee.

(b) The student activity and service fees shall be expended for lawful purposes to benefit the student body in general. This shall include, but shall not be limited to, student publications and grants to duly recognized student organizations, the membership of which is open to all students at the university without regard to race, sex, or religion. The fund may not benefit activities for which an admission fee is charged to students, except for student-government-association-sponsored concerts. The allocation and

expenditure of the fund shall be determined by the student government association of the university, except that the president of the university may veto any line item or portion thereof within the budget when submitted by the student government association legislative body. The university president shall have 15 school days from the date of presentation of the budget to act on the allocation and expenditure recommendations, which shall be deemed approved if no action is taken within the 15 school days. If any line item or portion thereof within the budget is vetoed, the student government association legislative body shall within 15 school days make new budget recommendations for expenditure of the vetoed portion of the fund. If the university president vetoes any line item or portion thereof within the new budget revisions, the university president may reallocate by line item that vetoed portion to bond obligations guaranteed by activity and service fees. Unexpended funds and undisbursed funds remaining at the end of a fiscal year shall be carried over and remain in the student activity and service fund and be available for allocation and expenditure during the next fiscal year.

(11) Each university board of trustees shall establish a student health fee on the main campus of the university. The university board of trustees may also establish a student health fee on any branch campus or center. Any subsequent increase in the health fee must be recommended by a health committee, at least one-half of whom are students appointed by the student body president. The remainder of the committee shall be appointed by the university president. A chairperson, appointed jointly by the university president and the student body president, shall vote only in the case of a tie. The recommendations of the committee shall take effect only after approval by the university president, after consultation with the student body president, with final approval by the university board of trustees. An increase in the health fee may occur only once each fiscal year and must be implemented beginning with the fall term. The Board of Governors is responsible for adopting the regulations rules and timetables necessary to implement this fee.

(12) Each university board of trustees shall establish a separate athletic fee on the main campus of the university. The university board may also establish a separate athletic fee on any branch campus or center. Any subsequent increase in the athletic fee must be recommended by an athletic fee committee, at least one-half of whom are students appointed by the student body president. The remainder of the committee shall be appointed by the university president. A chairperson, appointed jointly by the university president and the student body president, shall vote only in the case of a tie. The recommendations of the committee shall take effect only after approval by the university president, after consultation with the student body president, with final approval by the university board of trustees. An increase in the athletic fee may occur only once each fiscal year and must be implemented beginning with the fall term. The Board of Governors is responsible for adopting the regulations rules and timetables necessary to implement this fee.

(13) Each university board of trustees may establish a technology fee of up to 5 percent of the tuition per credit hour. The revenue from this fee shall be used to enhance instructional technology resources for students and faculty. The technology fee may not be included in any award under the Florida Bright Futures Scholarship Program established pursuant to ss. 1009.53-1009.538.

~~(14)~~(13) Except as otherwise provided in subsection (15), each university board of trustees is authorized to establish the following fees:

- (a) A nonrefundable application fee in an amount not to exceed \$30.
- (b) An orientation fee in an amount not to exceed \$35.
- (c) A fee for security, access, or identification cards. The annual fee for such a card may not exceed \$10 per card. The maximum amount charged for a replacement card may not exceed \$15.
- (d) Registration fees for audit and zero-hours registration; a service charge, which may not exceed \$15, for the payment of tuition and fees in installments; and a late-registration fee in an amount not less than \$50 nor more than \$100 to be imposed on students who fail to initiate registration during the regular registration period.
- (e) A late-payment fee in an amount not less than \$50 nor more than \$100 to be imposed on students who fail to pay or fail to make appropriate arrangements to pay (by means of installment payment, deferment, or third-party billing) tuition by the deadline set by each university. Each university may adopt specific procedures or policies for waiving the late-payment fee for minor underpayments.
- ~~(f)~~(~~+~~) Fees for transcripts and diploma replacement, not to exceed \$10 per item.
- (g) A nonrefundable admissions deposit for undergraduate, graduate, and professional degree programs in an amount not to exceed \$200. The admissions deposit shall be imposed at the time of an applicant's acceptance to the university and shall be applied toward tuition upon enrollment. If the applicant does not enroll in the university, the admissions deposit shall be deposited in an auxiliary account of the university and used to expand financial assistance, scholarships, and student academic and career counseling services at the university. The Board of Governors shall adopt a policy that provides for the waiver of such admissions deposit on the basis of financial hardship.
- ~~(h)~~(~~f~~) A fee for miscellaneous health-related charges for services provided at cost by the university health center which are not covered by the health fee set under subsection (11).

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

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

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

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

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

~~(n)(l)~~ Library fees and fines, including charges for damaged and lost library materials, overdue reserve library books, interlibrary loans, and literature searches.

~~(o)(m)~~ Fees relating to duplicating, photocopying, binding, and micro-filming; copyright services; and standardized testing. These fees may be charged only to those who receive the services.

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

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

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

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

~~(s) A technology fee of up to 5 percent of the tuition per credit hour, beginning with the fall term of the 2009-2010 academic year. The revenue from this fee shall be used to enhance instructional technology resources for students and faculty. The technology fee shall not be included in any award under the Florida Bright Futures Scholarship Program.~~

With the exception of housing rental rates and except as otherwise provided, fees assessed pursuant to paragraphs (h)-(s) shall be based on reasonable costs of services. The Board of Governors shall adopt regulations and timetables necessary to implement the fees and fines authorized under this subsection. The fees assessed under this subsection may be used for debt only as authorized under s. 1010.62.

~~(14) Each university board of trustees is authorized to establish a nonrefundable admissions deposit for undergraduate, graduate, and~~

~~professional degree programs in an amount not to exceed \$200. The admissions deposit shall be imposed at the time of an applicant's acceptance to the university and shall be applied toward tuition upon enrollment. In the event the applicant does not enroll in the university, the admissions deposit shall be deposited in an auxiliary account of the university and used to expand financial assistance, scholarships, and student academic and career counseling services at the university. A university board of trustees that establishes an admissions deposit pursuant to this subsection must also adopt policies that provide for the waiver of such deposit on the basis of financial hardship.~~

(15)(a) The Board of Governors may approve:

1. A proposal from a university board of trustees to establish a new student fee that is not specifically authorized by this section.

2. A proposal from a university board of trustees to increase the current cap for an existing fee authorized pursuant to paragraphs (14)(a)-(g).

3. A proposal from a university board of trustees to implement flexible tuition policies, such as undergraduate or graduate block tuition, block tuition differential, or market tuition rates for graduate-level online courses or graduate-level courses offered through a university's continuing education program. A block tuition policy for resident undergraduate students or undergraduate-level courses shall be based on the per-credit-hour undergraduate tuition established under subsection (4). A block tuition policy for nonresident undergraduate students shall be based on the per-credit-hour undergraduate tuition and out-of-state fee established under subsection (4). Flexible tuition policies, including block tuition, may not increase the state's fiscal liability or obligation.

(b) A proposal developed pursuant to paragraph (a) shall be submitted in accordance with guidelines established by the Board of Governors. Approval by the Board of Governors of such proposal must be made in accordance with the provisions of this subsection.

(c) In reviewing a proposal to establish a new fee under subparagraph (a) 1., the Board of Governors shall consider:

1. The purpose to be served or accomplished by the new fee.

2. Whether there is a demonstrable student-based need for the new fee that is not currently being met through existing university services, operations, or another fee.

3. Whether the financial impact on students is warranted in light of other charges assessed to students for tuition and associated fees.

4. Whether any restrictions, limitations, or conditions should be placed on the use of the fee.

5. Whether there are outcome measures to indicate if the purpose for which the fee was established is accomplished.

(d) In reviewing a proposal to increase or exceed the current cap for an existing fee under subparagraph (a)2., the Board of Governors shall consider:

1. The services or operations currently being funded by the fee.
2. Whether those services or operations can be performed more efficiently to alleviate the need for any increase.
3. The additional or enhanced services or operations to be funded by the increase.
4. Whether any alternative resources are available to meet the need.
5. Whether the financial impact on students is warranted in light of other charges assessed to students for tuition and associated fees.

(e) In reviewing a proposal to implement a flexible tuition policy under subparagraph (a)3., the Board of Governors shall consider:

1. Whether the proposed tuition flexibility policy is aligned with the mission of the university.
2. Whether the proposed tuition flexibility policy increases the state's fiscal liabilities or obligations and, if so, the proposal shall be denied.
3. Whether any restrictions, limitations, or conditions should be placed on the policy.
4. How the proposed tuition flexibility policy will be implemented to honor the advance payment contracts of students who are beneficiaries of prepaid tuition contracts under s. 1009.98.

(f) The Board of Governors shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, and the Governor summarizing the proposals received by the board during the preceding year and actions taken by the board in response to such proposals. The Board of Governors shall also include in the annual report the following information for each fee established pursuant to subparagraph (a)1.:

1. The amount of the fee.
2. The total revenues generated by the fee.
3. Detailed expenditures of the revenues generated by the fee.

(g) The aggregate sum of any fees established pursuant to subparagraph (a)1. that a student is required to pay to register for a course shall not exceed 10 percent of tuition.

(h) Any fee established pursuant to subparagraph (a)1. shall not be included in any award under the Florida Bright Futures Scholarship Program established pursuant to ss. 1009.53-1009.538.

(i) The revenues generated by a fee established pursuant to subparagraph (a)1. may not be transferred to an auxiliary enterprise or a direct-support organization and may not be used for the purpose of paying or securing debt.

(j) If the Board of Governors approves a university proposal to establish a fee pursuant to subparagraph (a)1., a fee committee shall be established at the university to make recommendations to the university president and the university board of trustees regarding how the revenue from the fee is to be spent and any subsequent changes to the fee. At least one-half of the committee must be students appointed by the student body president. The remainder of the committee shall be appointed by the university president. A chair, appointed jointly by the university president and the student body president, shall vote only in the case of a tie.

(k) An increase to an existing fee or a fee established pursuant to subparagraph (a)1. may occur no more than once each fiscal year and must be implemented beginning with the fall term. Each university may assess a service charge for the payment of tuition and fees in installments. Such service charge must be approved by the university board of trustees.

(16) Each university board of trustees may establish a tuition differential for undergraduate courses upon receipt of approval from the Board of Governors. The tuition differential shall promote improvements in the quality of undergraduate education and shall provide financial aid to undergraduate students who exhibit financial need.

(a) Seventy percent of the revenues from the tuition differential shall be expended for purposes of undergraduate education. Such expenditures may include, but are not limited to, increasing course offerings, improving graduation rates, increasing the percentage of undergraduate students who are taught by faculty, decreasing student-faculty ratios, providing salary increases for faculty who have a history of excellent teaching in undergraduate courses, improving the efficiency of the delivery of undergraduate education through academic advisement and counseling, and reducing the percentage of students who graduate with excess hours. This expenditure for undergraduate education may not be used to pay the salaries of graduate teaching assistants. The remaining 30 percent of the revenues from the tuition differential, or the equivalent amount of revenue from private sources, shall be expended to provide financial aid to undergraduate students who exhibit financial need to meet the cost of university attendance. This expenditure for need-based financial aid shall not supplant the amount of need-based aid provided to undergraduate students in the preceding fiscal year from financial aid fee revenues, the direct appropriation for financial assistance provided to state universities in the General Appropriations Act, or from private sources.

(b) Each tuition differential is subject to the following conditions:

1. The tuition differential may be assessed on one or more undergraduate courses or on all undergraduate courses at a state university.

2. The tuition differential may vary by course or courses, campus or center location, and by institution. Each university board of trustees shall strive to maintain and increase enrollment in degree programs related to math, science, high technology, and other state or regional high-need fields when establishing tuition differentials by course.

3. For each state university that has total research and development expenditures for all fields of at least \$100 million per year as reported annually to the National Science Foundation, the aggregate sum of tuition and the tuition differential may not be increased by more than 15 percent of the total charged for the aggregate sum of these fees in the preceding fiscal year. For each state university that has total research and development expenditures for all fields of less than \$100 million per year as reported annually to the National Science Foundation, the aggregate sum of tuition and the tuition differential may not be increased by more than 15 percent of the total charged for the aggregate sum of these fees in the preceding fiscal year.

4. The aggregate sum of undergraduate tuition and fees per credit hour, including the tuition differential, may not exceed the national average of undergraduate tuition and fees at 4-year degree-granting public postsecondary educational institutions.

5. The tuition differential shall not be included in any award under the Florida Bright Futures Scholarship Program established pursuant to may not be calculated as a part of the scholarship programs established in ss. 1009.53-1009.538.

6. Beneficiaries having prepaid tuition contracts pursuant to s. 1009.98(2)(b) which were in effect on July 1, 2007, and which remain in effect, are exempt from the payment of the tuition differential.

7. The tuition differential may not be charged to any student who was in attendance at the university before July 1, 2007, and who maintains continuous enrollment.

8. The tuition differential may be waived by the university for students who meet the eligibility requirements for the Florida public student assistance grant established in s. 1009.50.

9. Subject to approval by the Board of Governors, the tuition differential authorized pursuant to this subsection may take effect with the 2009 fall term.

(c) A university board of trustees may submit a proposal to the Board of Governors to implement a tuition differential for one or more undergraduate courses. At a minimum, the proposal shall:

1. Identify the course or courses for which the tuition differential will be assessed.
2. Indicate the amount that will be assessed for each tuition differential proposed.
3. Indicate the purpose of the tuition differential.
4. Indicate how the revenues from the tuition differential will be used.
5. Indicate how the university will monitor the success of the tuition differential in achieving the purpose for which the tuition differential is being assessed.

(d) The Board of Governors shall review each proposal and advise the university board of trustees of approval of the proposal, the need for additional information or revision to the proposal, or denial of the proposal. The Board of Governors shall establish a process for any university to revise a proposal or appeal a decision of the board.

(e) The Board of Governors shall submit a report to the President of the Senate, the Speaker of the House of Representatives, and the Governor describing the implementation of the provisions of this subsection no later than January 1, 2010, and no later than January 1 each year thereafter. The report shall summarize proposals received by the board during the preceding fiscal year and actions taken by the board in response to such proposals. In addition, the report shall provide the following information for each university that has been approved by the board to assess a tuition differential:

1. The course or courses for which the tuition differential was assessed and the amount assessed.
2. The total revenues generated by the tuition differential.
3. With respect to waivers authorized under subparagraph (b)8., the number of students eligible for a waiver, the number of students receiving a waiver, and the value of waivers provided.
4. Detailed expenditures of the revenues generated by the tuition differential.
5. Changes in retention rates, graduation rates, the percentage of students graduating with more than 110 percent of the hours required for graduation, pass rates on licensure examinations, the number of undergraduate course offerings, the percentage of undergraduate students who are

taught by faculty, student-faculty ratios, and the average salaries of faculty who teach undergraduate courses.

(f) No state university shall be required to lower any tuition differential that was approved by the Board of Governors and in effect prior to January 1, 2009, in order to comply with the provisions of this subsection.

(17)(a) A state university may assess a student who enrolls in a course listed in the Florida Higher Education Distance Learning Catalog, established pursuant to s. 1004.09, a per-credit-hour distance learning course fee. For purposes of assessing this fee, a distance learning course is a course in which at least 80 percent of the direct instruction of the course is delivered using some form of technology when the student and instructor are separated by time or space, or both.

(b) The amount of the distance learning course fee may not exceed the additional costs of the services provided which are attributable to the development and delivery of the distance learning course. If the distance learning course fee is assessed by a state university, the institution may not assess duplicative fees to cover the additional costs.

(c) The link for the catalog must be prominently displayed within the advising and distance learning sections of the institution's website, using a graphic and description provided by the Florida Distance Learning Consortium, informing students of the catalog.

(18) A state university may not charge any fee except as specifically authorized by law.

(19) The Board of Governors shall adopt regulations to implement the provisions of this section.

Section 22. Subsection (9) of section 1009.26, Florida Statutes, is amended to read:

1009.26 Fee waivers.—

(9) Each university board of trustees is authorized to waive tuition and out-of-state fees for purposes that support and enhance the mission of the university. All fees waived must be based on policies that are adopted by university boards of trustees pursuant to regulations ~~rules~~ adopted by the Board of Governors. Each university shall report the purpose, number, and value of all fee waivers granted annually in a format prescribed by the Board of Governors.

Section 23. Paragraph (b) of subsection (1) and paragraph (b) of subsection (4) of section 1010.04, Florida Statutes, are amended to read:

1010.04 Purchasing.—

(1)

(b) Purchases and leases by state universities shall comply with the requirements of law and regulations ~~rules~~ of the Board of Governors.

(4)

(b) The Board of Governors may, by regulation ~~rule~~, provide for alternative procedures for state universities for bidding or purchasing in cases in which the character of the item requested renders competitive bidding impractical.

Section 24. Subsection (1) of section 1010.62, Florida Statutes, is amended to read:

1010.62 Revenue bonds and debt.—

(1) As used in this section, the term:

(a) “Auxiliary enterprise” means any activity defined in s. 1011.47(1) and performed by a university or a direct-support organization.

(b)~~(a)~~ “Capital outlay project” means:

1. Any project to acquire, construct, improve, or change the functional use of land, buildings, and other facilities, including furniture and equipment necessary to operate a new or improved building or facility.

2. Any other acquisition of equipment or software.

(c)~~(b)~~ “Debt” means bonds, except revenue bonds as defined in paragraph (e) ~~(d)~~, loans, promissory notes, lease-purchase agreements, certificates of participation, installment sales, leases, or any other financing mechanism or financial arrangement, whether or not a debt for legal purposes, for financing or refinancing for or on behalf of a state university or a direct-support organization or for the acquisition, construction, improvement, or purchase of capital outlay projects.

(d)~~(e)~~ “Direct-support organization” means an organization created pursuant to s. 1004.28 or any entity specifically established to incur debt.

(e)~~(d)~~ “Revenue bonds” means any obligation that constitutes a revenue bond pursuant to s. 11(d), Art. VII of the State Constitution.

Section 25. Section 1011.43, Florida Statutes, is amended to read:

1011.43 Investment of university agency and activity funds; earnings used for scholarships.—Each university is authorized to invest available agency and activity funds and to use the earnings from such investments for student scholarships and loans. The university board of trustees shall provide procedures for the administration of these scholarships and loans by regulations ~~rules~~.

Section 26. Subsection (4) of section 1011.90, Florida Statutes, is amended to read:

1011.90 State university funding.—

(4) The Board of Governors shall establish and validate a cost-estimating system consistent with the requirements of subsection (1) and shall report as part of its legislative budget request the actual expenditures for the fiscal year ending the previous June 30. Expenditure analysis, operating budgets, and annual financial statements of each university must be prepared using the standard financial reporting procedures and formats prescribed by the Board of Governors. These formats shall be the same as used for the 2000-2001 fiscal year reports. Any revisions to these financial and reporting procedures and formats must be approved by the Executive Office of the Governor and the appropriations committees of the Legislature jointly under the provisions of s. 216.023(3). The Board of Governors shall continue to collect and maintain at a minimum the management information databases existing on June 30, 2002. The expenditure analysis report shall include total expenditures from all sources for the general operation of the university and shall be in such detail as needed to support the legislative budget request.

Section 27. Paragraph (b) of subsection (2) of section 1013.02, Florida Statutes, is amended to read:

1013.02 Purpose; rules and regulations.—

(2)

(b) The Board of Governors shall adopt regulations pursuant to its regulation development procedure ~~rules pursuant to ss. 120.536(1) and 120.54~~ to implement the provisions of this chapter for state universities.

Section 28. Section 1013.10, Florida Statutes, is amended to read:

1013.10 Use of buildings and grounds.—The board may permit the use of educational facilities and grounds for any legal assembly or for community use centers or may permit the same to be used as voting places in any primary, regular, or special election. The board shall adopt rules, regulations, or policies and procedures necessary to protect educational facilities and grounds when used for such purposes.

Section 29. Paragraph (b) of subsection (5) of section 1013.12, Florida Statutes, is amended to read:

1013.12 Casualty, safety, sanitation, and firesafety standards and inspection of property.—

(5) INSPECTIONS OF PUBLIC POSTSECONDARY EDUCATION FACILITIES.—

(b) Firesafety inspections of state universities shall comply with regulations ~~rules~~ of the Board of Governors.

Section 30. Paragraph (b) of subsection (1) of section 1013.28, Florida Statutes, is amended to read:

1013.28 Disposal of property.—

(1) REAL PROPERTY.—

(b) Subject to regulations ~~rules~~ of the Board of Governors, a state university board of trustees may dispose of any land or real property to which it holds valid title which is, by resolution of the state university board of trustees, determined to be unnecessary for educational purposes as recommended in an educational plant survey. A state university board of trustees shall take diligent measures to dispose of educational property only in the best interests of the public. However, appraisals may be obtained by the state university board of trustees prior to or simultaneously with the receipt of bids.

Section 31. Subsection (22) of section 1013.30, Florida Statutes, is amended to read:

1013.30 University campus master plans and campus development agreements.—

(22) In consultation with the state land planning agency, the Board of Governors shall adopt a single, uniform set of regulations ~~rules~~ to administer subsections (3)-(6). The regulations ~~rules~~ must set specific schedules and procedures for the development and adoption of campus master plans. Before adopting the regulations ~~rules~~, the Board of Governors must obtain written verification from the state land planning agency that the regulations ~~rules~~ satisfy the minimum statutory criteria required by subsections (3)-(6). The state land planning agency shall provide the verification within 45 days after receiving a copy of the regulations ~~rules~~.

Section 32. Paragraph (b) of subsection (1) of section 1013.31, Florida Statutes, is amended to read:

1013.31 Educational plant survey; localized need assessment; PECO project funding.—

(1) At least every 5 years, each board shall arrange for an educational plant survey, to aid in formulating plans for housing the educational program and student population, faculty, administrators, staff, and auxiliary and ancillary services of the district or campus, including consideration of the local comprehensive plan. The Department of Education shall document the need for additional career and adult education programs and the continuation of existing programs before facility construction or renovation related to career or adult education may be included in the educational plant survey of a school district or community college that delivers career or adult education

programs. Information used by the Department of Education to establish facility needs must include, but need not be limited to, labor market data, needs analysis, and information submitted by the school district or community college.

(b) Required need assessment criteria for district, community college, state university, and Florida School for the Deaf and the Blind plant surveys. Educational plant surveys must use uniform data sources and criteria specified in this paragraph. Each revised educational plant survey and each new educational plant survey supersedes previous surveys.

1. The school district's survey must be submitted as a part of the district educational facilities plan defined in s. 1013.35. To ensure that the data reported to the Department of Education as required by this section is correct, the department shall annually conduct an onsite review of 5 percent of the facilities reported for each school district completing a new survey that year. If the department's review finds the data reported by a district is less than 95 percent accurate, within 1 year from the time of notification by the department the district must submit revised reports correcting its data. If a district fails to correct its reports, the commissioner may direct that future fixed capital outlay funds be withheld until such time as the district has corrected its reports so that they are not less than 95 percent accurate.

2. Each survey of a special facility, joint-use facility, or cooperative career education facility must be based on capital outlay full-time equivalent student enrollment data prepared by the department for school districts and community colleges and by the Chancellor of the State University System for universities. A survey of space needs of a joint-use facility shall be based upon the respective space needs of the school districts, community colleges, and universities, as appropriate. Projections of a school district's facility space needs may not exceed the norm space and occupant design criteria established by the State Requirements for Educational Facilities.

3. Each community college's survey must reflect the capacity of existing facilities as specified in the inventory maintained by the Department of Education. Projections of facility space needs must comply with standards for determining space needs as specified by rule of the State Board of Education. The 5-year projection of capital outlay student enrollment must be consistent with the annual report of capital outlay full-time student enrollment prepared by the Department of Education.

4. Each state university's survey must reflect the capacity of existing facilities as specified in the inventory maintained and validated by the Chancellor of the State University System. Projections of facility space needs must be consistent with standards for determining space needs as specified by regulation ~~rule~~ of the Board of Governors. The projected capital outlay full-time equivalent student enrollment must be consistent with the 5-year planned enrollment cycle for the State University System approved by the Board of Governors.

5. The district educational facilities plan of a school district and the educational plant survey of a community college, state university, or the Florida School for the Deaf and the Blind may include space needs that deviate from approved standards for determining space needs if the deviation is justified by the district or institution and approved by the department or the Board of Governors, as appropriate, as necessary for the delivery of an approved educational program.

Section 33. Section 1013.47, Florida Statutes, is amended to read:

1013.47 Substance of contract; contractors to give bond; penalties.—Each board shall develop contracts consistent with this chapter and statutes governing public facilities. Such a contract must contain the drawings and specifications of the work to be done and the material to be furnished, the time limit in which the construction is to be completed, the time and method by which payments are to be made upon the contract, and the penalty to be paid by the contractor for any failure to comply with the terms of the contract. The board may require the contractor to pay a penalty for any failure to comply with the terms of the contract and may provide an incentive for early completion. Upon accepting a satisfactory bid, the board shall enter into a contract with the party or parties whose bid has been accepted. The contractor shall furnish the board with a performance and payment bond as set forth in s. 255.05. A board or other public entity may not require a contractor to secure a surety bond under s. 255.05 from a specific agent or bonding company. Notwithstanding any other provision of this section, if 25 percent or more of the costs of any construction project is paid out of a trust fund established pursuant to 31 U.S.C. s. 1243(a)(1), laborers and mechanics employed by contractors or subcontractors on such construction will be paid wages not less than those prevailing on similar construction projects in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended. A person, firm, or corporation that constructs any part of any educational plant, or addition thereto, on the basis of any unapproved plans or in violation of any plans approved in accordance with the provisions of this chapter and rules of the State Board of Education or regulations of the Board of Governors relating to building standards or specifications is subject to forfeiture of bond and unpaid compensation in an amount sufficient to reimburse the board for any costs that will need to be incurred in making any changes necessary to assure that all requirements are met and is also guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for each separate violation.

Section 34. Subsection (3) of section 1013.74, Florida Statutes, is amended to read:

1013.74 University authorization for fixed capital outlay projects.—

(3) Other than those projects currently authorized, no project proposed by a university which is to be funded from Capital Improvement Trust Fund fees or building fees shall be submitted to the Board of Governors for approval without prior consultation with the student government association

of that university. The Board of Governors may adopt regulations rules which are consistent with this requirement.

Section 35. (1) Sections 1001.74, 1004.21, 1004.38, 1004.381, 1004.3811, 1004.382, 1004.383, 1004.386, and 1004.64, Florida Statutes, and subsection (13) of section 1004.22, Florida Statutes, are repealed.

(2) It is the intent of the Legislature that the repeal of sections 1004.38, 1004.381, 1004.3811, 1004.382, 1004.383, 1004.386, and 1004.64, Florida Statutes, by this act is to remove existing statutory authority that is no longer necessary for the degree programs and entities that were authorized under those provisions and does not affect the authority of a state university or the Board of Governors of the State University System to continue such programs and entities.

Section 36. Each state university shall identify and submit to the Board of Governors a list of rules published in Titles 6C1, 6C2, 6C3, 6C4, 6C5, 6C6, 6C7, 6C8, 6C9, 6C10, and 6C11, Florida Administrative Code, that have been superseded by regulations adopted by the Board of Governors or the university board of trustees pursuant to authority under s. 7, Art. IX of the State Constitution or for which specific statutory authority to adopt such regulations has been provided under this act. The Board of Governors shall confirm that the information provided complies with the provisions of this section and forward the information to the Department of State along with any rules of the Board of Governors published in Title 6C that meet the same criteria. The Department of State may remove from the Florida Administrative Code on or before June 30, 2011, any rule of a state university or the Board of Governors that derives purely from constitutional authority or for which statutory authority to adopt regulations instead of rules has been provided. If the Department of State removes a rule from the Florida Administrative Code pursuant to this section, it shall place a history note at the rule number indicating the action taken and referencing this section.

Section 37. This act shall take effect July 1, 2010.

Approved by the Governor May 11, 2010.

Filed in Office Secretary of State May 11, 2010.