

CHAPTER 98-421

House Bill No. 4259

An act relating to postsecondary education; amending s. 232.2466, F.S.; revising requirements for the college-ready diploma program; amending s. 233.061, F.S.; including the study of Hispanic and Women's contributions to the United States in required public school instruction; amending s. 239.117, F.S.; exempting specified students from postsecondary fees; amending s. 239.225, F.S.; revising provisions relating to the Vocational Improvement Program; amending s. 240.1163, F.S.; revising dual enrollment provisions; amending s. 240.235, F.S.; exempting specified university students from fees; amending s. 240.311, F.S., relating to powers and duties of the State Board of Community Colleges; amending s. 240.321, F.S., relating to duties of community college district boards of trustees; requiring notification of alternative remedial options; amending s. 240.324, F.S., relating to the community college accountability process; providing for coinciding reporting deadlines; clarifying language; amending s. 240.35, F.S.; exempting specified community college students from fees; amending s. 240.36, F.S.; revising provisions relating to the uses of a trust fund for community colleges; amending s. 240.382, F.S.; correcting a cross-reference; amending s. 240.4097, F.S., relating to the Florida Postsecondary Student Assistance Grant Program; requiring the establishment of application deadlines; amending s. 246.201, F.S.; revising legislative intent; amending s. 246.203, F.S.; renaming the State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools the State Board of Nonpublic Career Education; revising definition of schools regulated by the board; amending s. 246.205, F.S.; conforming provisions; amending s. 246.207, F.S.; revising powers and duties of the board; amending s. 246.213, F.S.; conforming provisions; amending s. 246.215, F.S.; requiring licensing of specified programs by the board; creating s. 246.216, F.S.; providing for exemption from licensure for specified entities; providing for statements of exemption; providing for revocation of statements of exemption; providing for remedies; amending ss. 246.219, 246.220, 246.2265, 246.227, and 246.31, F.S.; conforming provisions; amending ss. 20.15, 240.40204, 246.011, 246.081, 246.085, 246.091, 246.111, 246.50, 455.2125, 455.554, 467.009, 476.178, 477.023, and 488.01, F.S.; conforming provisions; amending s. 232.246, F.S.; revising credit requirements for high school graduation; creating s. 233.0616, F.S.; encouraging elementary schools and middle schools to implement personal fitness programs and providing for the allocation of funds; providing for the allocation of funds for upgrading a physical education specialist position in the Department of Education; amending s. 240.61, F.S.; revising criteria for participating in the college reach-out program; revising the due date for a report on the college reach-out program; removing the requirement for including longitudinal cohort assessment; repealing s. 240.154, F.S., which provides for undergraduate enhancement; repealing s. 240.278, F.S.,

which provides for the establishment and use of the Quality Assurance Fund; repealing s. 240.521, F.S., which provides for the establishment of a state university or a branch of an existing state university to be located in East Central Florida; repealing s. 240.522, F.S., which provides for the establishment of a university in Southwest Florida; repealing s. 240.523, F.S., which provides for the establishment of a 4-year college in Dade County; repealing s. 240.525, F.S., which provides for the establishment of a state university or branch of an existing state university or state college in Duval County; amending s. 216.136, F.S.; providing duties of the Education Estimating Conference; amending s. 240.409, F.S.; authorizing eligibility determination and grant distribution for the Florida Public Student Assistance Grant Program to be conducted by the receiving institution; specifying a dollar value range for grant awards; amending s. 240.4095, F.S.; authorizing eligibility determination and grant distribution for the Florida Private Student Assistance Grant Program to be conducted by the receiving institution; specifying a dollar value range for grant awards; amending s. 240.4097, F.S.; authorizing eligibility determination and grant distribution for the Florida Postsecondary Student Assistance Grant Program to be conducted by the receiving institution; specifying a dollar value range for grant awards; amending s. 240.551, F.S.; renaming the Florida Prepaid Postsecondary Education Expense Program, Board, and Trust Fund the Florida Prepaid College Program, Board, and Trust Fund, respectively; reordering provisions and providing technical revisions; deleting obsolete provisions; conforming cross-references; permitting soliciting and contracting for records administration services; providing for the inclusion of certain fees within advance payment contracts for tuition; amending s. 222.22, F.S.; conforming provisions; amending s. 732.402, F.S.; exempting Florida Prepaid College Program contracts from the probate claims of creditors; reenacting ss. 731.201(13) and 735.301(1), F.S., relating to probate, to incorporate the amendment to s. 732.402, F.S., in references; amending s. 240.207, F.S.; providing terms of office for members of the Board of Regents; amending s. 240.209, F.S.; revising provisions relating to the selection of the Chancellor; deleting a restriction on the faculty appointment of former university presidents; creating s. 240.136, F.S.; requiring state university and community college student government associations to establish a process for removal of certain student government officials; providing requirements; providing for a referendum; providing effective dates.

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

Section 1. Section 232.2466, Florida Statutes, is amended to read:

232.2466 College-ready diploma program.—

(1) Beginning with the 1998-1999 ~~1997-1998~~ school year, each school district shall award a differentiated college-ready diploma to each student who:

(a) Successfully completes the requirements for a standard high school diploma as prescribed by s. 232.246. Among courses taken to fulfill the 24-academic-credit requirement, a student must take high school courses that are adopted by the Board of Regents and recommended by the State Board of Community Colleges as college-preparatory academic courses.

~~1.—Two credits in algebra and one credit in geometry, or their equivalents, as determined by the state board.~~

~~2.—One credit in biology, one credit in chemistry, and one credit in physics, or their equivalents, as determined by the state board.~~

~~3.—Two credits in the same foreign language, taken for elective credit. A student whose native language is not English is exempt from this requirement if the student demonstrates proficiency in the native language. American sign language constitutes a foreign language.~~

(b) Takes the postsecondary education common placement test prescribed in s. 240.117, or an equivalent test identified by the State Board of Education, before graduation and scores at or above the established state-wide passing score in each test area.

(2) A college-ready diploma entitles a student to admission without additional placement testing to a public postsecondary education program that terminates in a technical certificate, an applied technology diploma, an associate in applied science degree, an associate in science degree, or an associate in arts degree, if the student enters postsecondary education within 2 years after earning the college-ready diploma.

(3) The Department of Education shall periodically convene a task force of educators and employers to recommend additional incentives for students to pursue a college-ready diploma. The incentives may include awards and recognition, preference for positions in firms, and early registration privileges in postsecondary education institutions.

Section 2. Paragraphs (o) and (p) are added to subsection (2) of section 233.061, Florida Statutes, to read:

233.061 Required instruction.—

(2) Members of the instructional staff of the public schools, subject to the rules and regulations of the commissioner, the state board, and the school board, shall teach efficiently and faithfully, using the books and materials required, following the prescribed courses of study, and employing approved methods of instruction, the following:

(o) The study of Hispanic contributions to the United States.

(p) The study of Women's Contributions to the United States.

Section 3. Paragraph (f) is added to subsection (4) of section 239.117, Florida Statutes, to read:

239.117 Postsecondary student fees.—

(4) The following students are exempt from the payment of registration, matriculation, and laboratory fees:

(f) A student who is a proprietor, owner, or worker of a company whose business has been at least 50 percent negatively financially impacted by the buy-out of property around Lake Apopka by the State of Florida. Such a student may receive a fee exemption only if the student has not received compensation because of the buy-out, the student is designated a Florida resident for tuition purposes, pursuant to s. 240.1201, and the student has applied for and been denied financial aid, pursuant to s. 240.404, which would have provided, at a minimum, payment of all student fees. The student is responsible for providing evidence to the postsecondary education institution verifying that the conditions of this paragraph have been met, including support documentation provided by the Department of Revenue. The student must be currently enrolled in, or begin coursework within, a program area by fall semester 2000. The exemption is valid for a period of 4 years from the date that the postsecondary education institution confirms that the conditions of this paragraph have been met.

Section 4. Subsection (1) and paragraph (c) of subsection (3) of section 239.225, Florida Statutes, are amended, and subsection (5) is added to said section, to read:

239.225 Vocational Improvement Program.—

(1) There is established the Vocational Improvement Program to be administered by the Department of Education pursuant to this section ~~and rules of the State Board for Career Education. Such rules must provide for the submission of applications and distribution of funds pursuant to this section.~~ The priorities for allocation of funds for the program are the development of vocational programs for disadvantaged persons; recruitment, pre-service and inservice activities for vocational counselors and teachers; the development of information systems that are compatible between school districts and community colleges; job placement services for vocational completers; the development of exploratory vocational courses; activities that provide faculty articulation for the purpose of integrating vocational and academic instruction; and activities that ensure greater community involvement in career education.

(3)

~~(c) The State Board for Career Education may adopt rules necessary to implement the provisions of this subsection.~~

(5) The State Board for Career Education may adopt rules to implement this program.

Section 5. Subsections (4) and (5) are added to section 240.1163, Florida Statutes, to read:

240.1163 Joint dual enrollment and advanced placement instruction.—

(4) School districts and community colleges must weigh college-level dual enrollment courses the same as honors courses and advanced placement courses when grade point averages are calculated. Alternative grade calculation or weighting systems that discriminate against dual enrollment courses are prohibited.

(5) The Commissioner of Education may approve dual enrollment agreements for limited course offerings that have statewide appeal. Such programs shall be limited to a single site with multiple county participation.

Section 6. Subsections (6), (7), (8), and (9) of section 240.235, Florida Statutes, are renumbered as subsections (7), (8), (9), and (10), respectively, and a new subsection (6) is added to said section to read:

240.235 Fees.—

(6) Any proprietor, owner, or worker of a company whose business has been at least 50 percent negatively financially impacted by the buy-out of property around Lake Apopka by the State of Florida is exempt from the payment of registration, matriculation, and laboratory fees. A student receiving a fee exemption in accordance with this subsection must not have received compensation because of the buy-out, must be designated a Florida resident for tuition purposes, pursuant to s. 240.1201, and must first have applied for and been denied financial aid, pursuant to s. 240.404, which would have provided, at a minimum, payment of all student fees. The student is responsible for providing evidence to the postsecondary education institution verifying that the conditions of this subsection have been met, including support documentation provided by the Department of Revenue. The student must be currently enrolled in, or begin coursework within, a program area by fall semester 2000. The exemption is valid for a period of 4 years from the date that the postsecondary education institution confirms that the conditions of this subsection have been met.

Section 7. Subsection (3) of section 240.311, Florida Statutes, is amended to read:

240.311 State Board of Community Colleges; powers and duties.—

(3) The State Board of Community Colleges shall:

(a) Provide for each community college to offer educational training and service programs designed to meet the needs of both students and the communities served.

(b) Provide, through rule, for the coordination of the state community college system.

(c) Review new associate degree or certificate programs for relationship to student demand; conduct periodic reviews of existing programs; and provide rules for termination of associate degree or certificate programs when excessive duplication exists.

(d) Ensure that the rules and procedures of community college district boards relating to admission to, enrollment in, employment in, and pro-

grams, services, functions, and activities of each college provide equal access and equal opportunity for all persons.

(e) Advise presidents of community colleges of the fiscal policies adopted by the Legislature and of their responsibilities to follow such policies.

(f) Specify, by rule, procedures to be used by the boards of trustees in the periodic evaluations of presidents and formally review the evaluations of presidents by the boards of trustees.

(g) Recommend to the State Board of Education minimum standards for the operation of each community college as required in s. 240.325, which standards may include, but are not limited to, general qualifications of personnel, budgeting, accounting and financial procedures, educational programs, student admissions and services, and community services.

(h) Establish an effective information system which will provide composite data about the community colleges and assure that special analyses and studies about the colleges are conducted, as necessary, for provision of accurate and cost-effective information about the colleges and about the community college system as a whole.

(i) Encourage the colleges and the system as a whole to cooperate with other educational institutions and agencies and with all levels and agencies of government in the interest of effective utilization of all resources, programs, and services.

(j) Establish criteria for making recommendations relative to modifying district boundary lines and for making recommendations upon all proposals for the establishment of additional centers or campuses for community colleges.

(k) Develop a plan in cooperation with the local school district and the Department of Education to include any and all counties in a community college service district.

(l) Assess the need to consolidate any community colleges.

(m) Develop and adopt guidelines relating to salary and fringe benefit policies for community college administrators, including community college presidents.

(n) Develop and adopt guidelines relating to official travel by community college employees.

(o) Receive an annual administrative review of each community college.

1. Such review shall include, but is not limited to, the administrator-to-faculty ratio, the percent of funds for administrative costs in the total budget, and the percent of funds in support programs compared to the percent of funds in instructional programs and may include such other indicators of quality as are necessary.

2. The review shall also include all courses offered by a community college outside its district. Courses offered outside the home district which are not approved by the State Board of Community Colleges shall not be counted for funding purposes or to meet enrollment assignments. For purposes of this subparagraph, electronically originated instruction, to include satellite, broadcast, and internet delivered instruction, shall be exempt. Exemption is only permitted when the community college's intent is to offer the instruction for students residing within the community college's home district and only markets the instruction to students residing within the community college's home district. If a community college's intent is to market the electronically originated instruction outside its home district and thus recruit students outside its home district, the community college must receive the approval of the State Board of Community Colleges. The State Board of Community Colleges shall have authority to review any electronically originated instruction for compliance with this section.

(p) Encourage and support activities which promote and advance college and statewide direct-support organizations.

(q) Specify, by rule, the degree program courses that may be taken by students concurrently enrolled in college-preparatory instruction.

Section 8. Section 240.321, Florida Statutes, is amended to read:

240.321 Community college district board of trustees; rules for admissions of students.—The board of trustees shall make rules governing admissions of students. These rules shall include the following:

(1) Admissions counseling shall be provided to all students entering college credit programs, which counseling shall utilize tests to measure achievement of college-level communication and computation competencies by all students entering college credit programs.

(2) Admission to associate degree programs is subject to minimum standards adopted by the State Board of Education and shall require:

(a) A standard high school diploma, a high school equivalency diploma as prescribed in s. 229.814, previously demonstrated competency in college credit postsecondary coursework, or, in the case of a student who is home educated, a signed affidavit submitted by the student's parent or legal guardian attesting that the student has completed a home education program pursuant to the requirements of s. 232.02(4). Students who are enrolled in a dual enrollment or early admission program pursuant to s. 240.116 and secondary students enrolled in college-level instruction creditable toward the associate degree, but not toward the high school diploma, shall be exempt from this requirement.

(b) A demonstrated level of achievement of college-level communication and computation skills. Students entering a postsecondary education program within 2 years of graduation from high school with an earned college-ready diploma issued pursuant to s. 232.2466 shall be exempt from this testing requirement.

(c) Any other requirements established by the board of trustees.

(3) Admission to other programs within the community college shall include education requirements as established by the board of trustees.

Each board of trustees shall establish policies that notify students about, and place students into, adult basic education, adult secondary education, or other instructional programs that provide students with alternatives to traditional college-preparatory instruction, including private provider instruction. Such notification shall include a written listing or a prominent display of information on alternative remedial options that must be available to each student who scores below college level in any area on the common placement test. The list or display shall include, but is not limited to, options provided by the community college, adult education programs, and programs provided by private-sector providers. The college shall not endorse, recommend, evaluate, or rank any of the providers. The list of providers or the display materials shall include all those providers that request to be included. The written list must provide students with specific contact information and disclose the full costs of the course tuition, laboratory fees, and instructional materials of each option listed. A student who elects a private provider for remedial instruction is entitled to enroll in up to 12 credits of college-level courses in skill areas other than those for which the student is being remediated. A student is prohibited from enrolling in additional college-level courses until the student scores above the cut-score on all sections of the common placement test.

Section 9. Section 240.324, Florida Statutes, is amended to read:

240.324 Community college accountability process.—

(1) It is the intent of the Legislature that a management and accountability process be implemented which provides for the systematic, ongoing improvement and assessment of the improvement of the quality and efficiency of the State Community College System. Accordingly, the State Board of Community Colleges and the community college boards of trustees shall develop and implement an accountability a plan to improve and evaluate the instructional and administrative efficiency and effectiveness of the State Community College System. This plan shall be designed in consultation with staff of the Governor and the Legislature and must address the following issues:

(a) Graduation rates of A.A. and A.S. degree-seeking students compared to first-time-enrolled students seeking the associate degree.

(b) Minority student enrollment and retention rates.

(c) Student performance, including student performance in college-level academic skills, mean grade point averages for community college A.A. transfer students, and community college student performance on state licensure examinations.

(d) Job placement rates of community college vocational students.

- (e) Student progression by admission status and program.
- (f) Vocational accountability standards identified in s. 239.229.
- (g) Other measures as identified by the Postsecondary Education Planning Commission and approved by the State Board of Community Colleges.

~~(2) By January 1, 1992, the State Board of Community Colleges shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a plan for addressing these issues. The plan must provide a specific timetable that identifies specific issues to be addressed each year and must provide for full implementation by December 31, 1994. Beginning September 1, 1998 December 31, 1992, the State Board of Community Colleges shall submit an annual interim report, to coincide with the submission of the agency strategic plan required by law, providing the results of initiatives taken during the prior year and the initiatives and related objective performance measures proposed for the next year. The initial plan and each interim plan shall be designed in consultation with staff of the Governor and the Legislature.~~

~~(3) Beginning January 1, 1993, The State Board of Community Colleges shall address within the annual evaluation of the performance of the executive director, and the boards of trustees shall address within the annual evaluation of the presidents, the achievement of the performance goals established by the accountability process in the community college accountability plan.~~

Section 10. Subsections (4) through (14) of section 240.35, Florida Statutes, as amended by chapter 97-383, Laws of Florida, are renumbered as subsections (5) through (15), respectively, paragraph (c) of present subsection (10) is amended, and a new subsection (4) is added to said section, to read:

240.35 Student fees.—Unless otherwise provided, the provisions of this section apply only to fees charged for college credit instruction leading to an associate degree, including college-preparatory courses defined in s. 239.105.

(4) Any proprietor, owner, or worker of a company whose business has been at least 50 percent negatively financially impacted by the buy-out of property around Lake Apopka by the State of Florida is exempt from the payment of registration, matriculation, and laboratory fees. A student receiving a fee exemption in accordance with this subsection must not have received compensation because of the buy-out, must be designated a Florida resident for tuition purposes pursuant to s. 240.1201, and must first have applied for and been denied financial aid, pursuant to s. 240.404, which would have provided, at a minimum, payment of all student fees. The student is responsible for providing evidence to the postsecondary education institution verifying that the conditions of this subsection have been met, including support documentation provided by the Department of Revenue. The student must be currently enrolled in, or begin coursework within, a program area by fall semester 2000. The exemption is valid for a period of

4 years from the date that the postsecondary education institution confirms that the conditions of this subsection have been met.

(11)(10)

(c) Up to 25 percent or \$250,000, whichever is greater, of the fees collected may be used to assist students who demonstrate academic merit, who participate in athletics, public service, cultural arts, and other extracurricular programs as determined by the institution, or who are identified as members of a targeted gender or ethnic minority population. The financial aid fee revenues allocated for athletic scholarships and fee exemptions provided pursuant to subsection (15) (14) for athletes shall be distributed equitably as required by s. 228.2001(3)(d). A minimum of 50 percent of the balance of these funds shall be used to provide financial aid based on absolute need, and the remainder of the funds shall be used for academic merit purposes and other purposes approved by the district boards of trustees. Such other purposes shall include the payment of child care fees for students with financial need. The State Board of Community Colleges shall develop criteria for making financial aid awards. Each college shall report annually to the Department of Education on the criteria used to make awards, the amount and number of awards for each criterion, and a delineation of the distribution of such awards. Awards which are based on financial need shall be distributed in accordance with a nationally recognized system of need analysis approved by the State Board of Community Colleges. 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.

Section 11. Subsections (4) and (7) of section 240.36, Florida Statutes, are amended to read:

240.36 Dr. Philip Benjamin Academic Improvement Trust Fund for Community Colleges.—

(4) Challenge grants shall be proportionately allocated from the trust fund on the basis of matching each \$4 of state funds with \$6 of local or private funds. ~~The matching funds shall come from contributions made after July 1, 1983, for the purposes of matching this grant. To be eligible, a minimum of \$4,500 must be raised from private sources, and such contributions must be in excess of the total average annual cash contributions made to the foundation at each community college in the 3 fiscal years before July 1, 1983.~~

(7)(a) The board of trustees of the community college and the State Board of Community Colleges are responsible for determining the uses for the proceeds of their respective trust funds. Such uses of the proceeds shall be limited to expenditure of the funds for:

1. Scientific and technical equipment.
2. Other activities that will benefit future students as well as students currently enrolled at the community college and that will improve the qual-

ity of education at the community college or in the community college system.

3. ~~Scholarships, loans, or need-based grants, which are the lowest priority for use of these funds.~~

(b) ~~If a community college includes scholarships, loans, or need-based grants in its proposal, it shall create an endowment in its academic improvement trust fund and use the earnings of the endowment to provide scholarships, loans, or need-based grants. in its proposal, it shall create an endowment in its academic improvement trust fund and use the earnings of the endowment to provide scholarships. Such scholarships must be program specific and require high academic achievement for students to qualify for or retain the scholarship. A scholarship program may be used for minority recruitment but may not be used for athletic participants. The board of trustees may award scholarships to students in associate in arts programs and vocational programs. However, for vocational programs, the board of trustees must have designated the program as a program of emphasis for quality improvement, a designation that should be restricted to a limited number of programs at the community college. In addition, the board of trustees must have adopted a specific plan that details how the community college will improve the quality of the program designated for emphasis and that includes quality measures and outcome measures. Over a period of time, the community college operating budget should show additional financial commitment to the program of emphasis above and beyond the average increases to other programs offered by the community college. Fundraising activities must be specifically identified as being for the program of emphasis or scholarship money. The community college must fully levy the amount for financial aid purposes provided by s. 240.35(10) in addition to the tuition and matriculation fee before any scholarship funds are awarded to the community college as part of its approved request.~~

(b)(c) Proposals for use of the trust fund shall be submitted to the State Board of Community Colleges for approval. Any proposal not acted upon in 60 days shall be considered not approved.

Section 12. Subsection (5) of section 240.382, Florida Statutes, is amended to read:

240.382 Establishment of child development training centers at community colleges.—

(5) In addition to revenues derived from child care fees charged to parents and other external resources, each child development training center may be funded by a portion of funds from the student activity and service fee authorized by s. 240.35(10)(9) and the capital improvement fee authorized by s. 240.35(14)(13). Community colleges are authorized to transfer funds as necessary from the college's general fund to support the operation of the child development training center.

Section 13. Subsection (2) of section 240.4097, Florida Statutes, is amended to read:

240.4097 Florida Postsecondary Student Assistance Grant Program; eligibility for grants.—

(2)(a) Florida postsecondary student assistance grants through the State Student Financial Assistance Trust Fund may be made only to full-time degree-seeking students who meet the general requirements for student eligibility as provided in s. 240.404, except as otherwise provided in this section. Such grants shall be awarded for the amount of demonstrated unmet need for tuition and fees and may not exceed a total of \$1,500 per academic year, or as specified in the General Appropriations Act, to any applicant. A demonstrated unmet need of less than \$200 shall render the applicant ineligible for a Florida postsecondary student assistance grant. Recipients of such grants must have been accepted at a postsecondary institution that is located in ~~and chartered as a domestic corporation by the state~~ and that is:

1. A private nursing diploma school approved by the Florida Board of Nursing; or
2. An institution either licensed by the State Board of Independent Colleges and Universities or exempt from licensure pursuant to s. 246.085(1)(a), excluding those institutions the students of which are eligible to receive a Florida private student assistance grant pursuant to s. 240.4095.

No student may receive an award for more than the equivalent of 9 semesters or 14 quarters in a period of not more than 6 consecutive years, except as otherwise provided in s. 240.404(3).

(b) A student applying for a Florida postsecondary student assistance grant shall be required to apply for the Pell Grant. The Pell Grant entitlement shall be considered by the department when conducting an assessment of the financial resources available to each student.

(c) The criteria and procedure for establishing standards of eligibility shall be determined by the department. The department is directed to establish a rating system upon which to base the approval of grants, including the use of a nationally recognized system of need analysis. The system shall include a certification of acceptability by the school of the applicant's choice. Priority in the distribution of grant moneys shall be given to students with the lowest total family resources, as determined pursuant to this subsection, taking into consideration the receipt of Pell Grants and student contributions to educational costs.

Section 14. Section 246.201, Florida Statutes, is amended to read:

246.201 Legislative intent.—

(1) Sections 246.201-246.231 shall provide for the protection of the health, education, and welfare of the citizens of Florida and shall facilitate and promote the acquisition of a minimum satisfactory career, ~~technical, trade, and business~~ education by all the citizens of this state. ~~There are presently many fine nonpublic schools existing in this state, but there are~~

~~some nonpublic schools which do not generally offer those educational opportunities which the citizens of Florida deem essential. The latter type of school also fails to contribute to the ultimate health, education, and welfare of the citizens of Florida. It shall be in the interest of, and essential to, the public health and welfare that the state create the means whereby all nonpublic postsecondary career independent degree career education, technical, trade, and business schools as defined in s. 246.203(1) shall satisfactorily meet minimum educational standards and fair consumer practices.~~

(2) A common practice in our society is to use diplomas and degrees for many purposes. Some of these purposes are: for employers to judge the qualifications of prospective employees; for public and nonpublic professional groups, vocational groups, educational agencies, governmental agencies, and educational institutions to determine the qualifications for admission to, and continuation of, educational goals, occupational goals, professional affiliations, or occupational affiliations; and for public and professional assessment of the extent of competency of individuals engaged in a wide range of activities within our society.

(3) Because of the common use of diplomas and degrees, the minimum legal requirements provided by ss. 246.201-246.231 for the establishment and operation of nonpublic postsecondary career independent degree career education, technical, trade, and business schools shall protect the individual student from deceptive, fraudulent, or substandard education; protect such ~~independent degree career education, technical, trade, and business schools~~; and protect the citizens of Florida holding diplomas or degrees.

~~(4) Nothing contained herein is intended in any way, nor shall be construed, to regulate the stated purpose of an independent degree career education, technical, trade, and business school or to restrict any religious instruction or training in a nonpublic school. Any school or business regulated by the state or approved, certified, or regulated by the Federal Aviation Administration is hereby expressly exempt from ss. 246.201-246.231. Non-profit schools, owned, controlled, operated, and conducted by religious, denominational, eleemosynary, or similar public institutions exempt from property taxation under the laws of this state shall be exempt from the provisions of ss. 246.201-246.231. However, such schools may choose to apply for a license hereunder, and, upon approval and issuance thereof, such schools shall be subject to ss. 246.201-246.231.~~

Section 15. Subsections (1) and (7) of section 246.203, Florida Statutes, are amended to read:

246.203 Definitions.—As used in ss. 246.201-246.231, unless the context otherwise requires:

(1) “School” means any nonpublic postsecondary noncollegiate career educational institution, association, corporation, person, partnership, or organization of any type that:

(a) Offers to provide or provides any postsecondary program of instruction, course, or class through the student’s personal attendance, in the

presence of an instructor, in a classroom, clinical, or other practicum setting or through correspondence or other distance learning; and

(b) Represents, directly or by implication, that the instruction will qualify the student for employment in any occupation whose practice in this state does not require a degree, as defined in s. 246.021(5); and

(c) Receives remuneration from the student or any other source on the enrollment of a student or on the number of students enrolled; or

(d) Offers to award or awards a diploma, as defined in subsection (6), regardless of whether or not it engages in the activities described in paragraph (a), paragraph (b), or paragraph (c). nongovernmental, postsecondary, vocational, technical, trade, or business noncollegiate educational institution, organization program, home study course, or class maintained or conducted in residence or through correspondence by any person, partnership, association, organization, or corporation for the purpose of offering instruction of any kind leading to occupational objectives or of furnishing a diploma, as defined in subsection (6), in business, management, trade, technical, or other career education and professional schools not otherwise regulated. Nonpublic colleges and universities which award a baccalaureate or higher degree, and nonpublic junior colleges which award an associate degree in liberal arts do not fall under the authority granted in ss. 246.201-246.231 unless the college, university, or junior college conducts, or seeks to conduct, a program for which a diploma, as defined in subsection (6), is to be awarded. Any nonpublic college, university, or junior college which conducts or seeks to conduct a diploma program shall, for the purposes of ss. 246.201-246.231, be included in the definition of "school." Schools offering only examination preparation courses for which they do not award a diploma as defined in subsection (6) do not fall under the authority granted in ss. 246.201-246.231; nor does a nonprofit class provided and operated entirely by an employer, a group of employers in related business or industry, or a labor union solely for its employees or prospective employees or members.

(7) "Board" means the State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools.

Section 16. Subsections (1) and (2) of section 246.205, Florida Statutes, are amended to read:

246.205 State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools.—

(1) There shall be established in the Department of Education a State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools. The board shall be assigned to the Department of Education only for the purpose of payroll, procurement, and related administrative functions which shall be exercised by the head of the department. The board shall independently exercise the other powers, duties, and functions prescribed by law. The board shall include nine members, appointed by the Governor as follows:

- (a) One from a business school;
- (b) One from a technical school;
- (c) One from a home study school;
- (d) One from a nonpublic school;
- (e) Four from business and industry; and
- (f) An administrator of vocational-technical education from a public school district or community college.

(2) Each of the members shall be appointed by the Governor, subject to confirmation by the Senate, for a term of 3 years. Of the original members appointed by the Governor, three shall serve for terms of 1 year, three shall serve for terms of 2 years, and three shall serve for terms of 3 years. Of the appointive members from the nonpublic postsecondary career independent schools, each shall have occupied executive or managerial positions in a nonpublic postsecondary career an independent school in this state for at least 5 years. All members shall be residents of this state. In the event of a vacancy on the board caused other than by the expiration of a term, the Governor shall appoint a successor to serve the unexpired term.

Section 17. Subsection (1) and paragraph (e) of subsection (2) of section 246.207, Florida Statutes, are amended to read:

246.207 Powers and duties of board.—

(1) The board shall:

(a) Hold such meetings as are necessary to administer efficiently the provisions of ss. 246.201-246.231.

(b) Select annually a chairperson and a vice chairperson.

~~(c) Adopt and use an official seal in the authentication of its acts.~~

~~(c)(d)~~ Make rules for its own government.

~~(d)(e)~~ Prescribe and recommend to the State Board of Education rules as are required by ss. 246.201-246.231 or as it may find necessary to aid in carrying out the objectives and purposes of ss. 246.201-246.231.

~~(e)(f)~~ Administer ss. 246.201-246.231 and execute such rules adopted pursuant thereto by the State Board of Education for the establishment and operation of nonpublic postsecondary career independent schools as defined in s. 246.203(1).

~~(f)(g)~~ Appoint, on the recommendation of its chairperson, executives, deputies, clerks, and employees of the board.

~~(g)(h)~~ Maintain a record of its proceedings.

(h)(i) Cooperate with other state and federal agencies in administering ss. 246.201-246.231.

(i)(j) Prepare an annual budget.

(j)(k) Transmit all fees, donations, and other receipts of money to the Institutional Assessment Trust Fund State Treasurer to be deposited in the General Revenue Fund.

(k)(l) Transmit to the Governor, the Speaker of the House of Representatives, the President of the Senate, the minority leader of the Senate, and the minority leader of the House of Representatives on July 1, 1987, and each succeeding year an annual report which shall include, but not be limited to:

1. A detailed accounting of all funds received and expended.
2. The number of complaints received and investigated, by type.
3. The number of findings of probable cause.
4. A description of disciplinary actions taken, by statutory classification.
5. A description of all administrative hearings and court actions.
6. A description of the board's major activities during the previous year.

(l)(m) Assure that no school that has met board requirements established by law or rule be made to operate without a current license due to scheduling of board meetings or application procedures for license renewal.

(m)(n) Cause to be investigated criminal justice information, as defined in s. 943.045, for each owner, administrator, and agent employed by a school applying for licensure or renewal of licensure.

(n)(o) Serve as a central agency for collection and distribution of current information regarding institutions licensed by the board.

1. The data collected by the board shall include information relating to the school administration, calendar system, admissions requirements, student costs and financial obligations, financial aid information, refund policy, placement services, number of full-time and part-time faculty, student enrollment and demographic figures, programs, and off-campus programs. Other information shall be collected in response to specific needs or inquiries. Financial information of a strictly proprietary, commercial nature is excluded from this requirement.

2. The data collected by the board must also include the data for the career education program evaluation reports required by s. 239.233 for each school that chooses to provide public information under s. 239.245.

3. The board shall provide to each participating institution annually the format, definitions, and instructions for submitting the required information.

4. The data submitted by each institution shall be accompanied by a letter of certification signed by the chief administrative officer of the institution, affirming that the information submitted is accurate.

5. A summary of the data collected by the board shall be included in the annual report to the Governor, the Speaker of the House of Representatives and the President of the Senate, the minority leader of the Senate, and the minority leader of the House of Representatives. The information collected by the board may also be used by the Department of Education for such purposes as statewide master planning, state financial aid programs, and publishing directories, by the Legislature, and to respond to consumer inquiries received by the board.

~~(p) Publish and index all policies and agency statements. If a policy or agency statement meets the criteria of a rule, as defined in s. 120.52, the board shall adopt it as a rule.~~

~~(o)(q)~~ Establish and publicize the procedures for receiving and responding to complaints from students, faculty, and others about schools or programs licensed by the board and shall keep records of such complaints in order to determine their frequency and nature for specific institutions of higher education. With regard to any written complaint alleging a violation of any provision of ss. 246.201-246.231 or any rule promulgated pursuant thereto, the board shall periodically notify, in writing, the person who filed the complaint of the status of the investigation, whether probable cause has been found, and the status of any administrative action, civil action, or appellate action, and if the board has found that probable cause exists, it shall notify, in writing, the party complained against of the results of the investigation and disposition of the complaint. The findings of the probable cause panel, if a panel is established, shall not be disclosed until the information is no longer confidential.

(2) The board may:

(e) Issue a license to any school subject to ss. 246.201-246.231 which is ~~exempted~~ excluded from the licensing and regulatory requirements of ss. 246.201-246.231, upon voluntary application for such license and upon payment of the appropriate fee as set forth in s. 246.219.

Section 18. Section 246.213, Florida Statutes, is amended to read:

246.213 Power of State Board of Education.—

(1) The State Board of Education, acting on the recommendation of the State Board of ~~Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~, shall adopt such minimum standards and rules as are required for the administration of ss. 246.201-246.231.

(2)(a) The minimum educational standards for the licensing of schools shall include, but not be limited to: name of school, purpose, administrative organization, educational program and curricula, finances, financial stability, faculty, library, student personnel services, physical plant and facilities,

publications, and disclosure statements about the status of the institution in relation to professional certification and licensure.

(b) Rules of the State Board of Education shall require that nonpublic schools administer an entry-level test of basic skills to each student who enrolls in a nondegree program of at least 450 clock hours, or the credit hour equivalent, which purports to prepare such student for employment. The State Board of ~~Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ shall designate examinations authorized for use for entry-level testing purposes. State Board of Education rules shall require that applicable schools provide students who are deemed to lack a minimal level of basic skills with a structured program of basic skills instruction. No student shall be granted a diploma, as defined in s. 246.203, until he or she has demonstrated mastery of basic skills. Exceptional students, as defined in s. 228.041, may be exempted from the provisions of this paragraph. The State Board of Education shall identify means through which students who are capable of demonstrating mastery of basic skills may be exempted from the provisions of this paragraph.

(c) The State Board of ~~Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ may request that schools within its jurisdiction provide the board all documents associated with institutional accreditation. The board shall solicit from schools which provide such documents only such additional information undisclosed in the accreditation documents provided. The board may conduct a comprehensive study of a school that fails to provide all documents associated with its institutional accreditation. The cost of such study shall be borne by the institution. Standards imposed by the board shall not be constrained in quality or quantity to those imposed by the respective accrediting body.

(d) The State Board of ~~Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ shall recommend to the State Board of Education minimum placement standards for institutions that conduct programs that prepare students for employment.

(3) The minimum requirements for the licensing of agents shall include: name, residential and business addresses, background training, institution or institutions to be represented, and demonstrated knowledge of statutes and rules related to the authority granted to agents and the limitations imposed upon such authority. No employee of a nonpublic school shall solicit prospective students for enrollment in such school until that employee is licensed by the State Board of ~~Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ as an agent.

(4) The State Board of ~~Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ shall adopt criteria for specialized associate degrees, diplomas, certificates, or other educational credentials that will be recognized in licensed schools. The State Board of ~~Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ shall adopt a common definition for each credential. To determine the level of a nonpublic an independent institution's vocational program or to establish criteria for a specialized

degree, the board shall use procedures developed pursuant to s. 239.205, which requires the Department of Education to determine the level of each public degree career education program.

Section 19. Section 246.215, Florida Statutes, is amended to read:

246.215 License required.—

(1) No nonpublic postsecondary career independent school required to be licensed pursuant to ss. 246.201-246.231 shall be operated or established within the state until such school makes application and obtains a license or authorization from the board. Each nonpublic school that seeks licensure shall first submit articles of incorporation to the Department of State. After the Department of State approves such articles and verifies that the articles indicate the corporation is a postsecondary school within the meaning and intent of s. 246.203, the corporation shall apply for licensure by the board within 60 days of approval of the articles. Department of State approval of the articles of incorporation shall not constitute authorization to operate the nonpublic school. The Department of State shall immediately transmit approved articles of incorporation for nonpublic schools to the board.

(2) No agent shall solicit any prospective student for enrollment in a nonpublic school until both the agent and the school are appropriately licensed or otherwise authorized by the board.

(3) No nonpublic postsecondary career independent school required to be licensed pursuant to ss. 246.201-246.231 shall advertise in any manner until such school is granted an appropriate license by the board, nor shall any licensed school advertise in any manner while such school is under an injunction against operating, soliciting students, or offering diplomas.

(4) No license granted by the board shall be transferable to another nonpublic postsecondary career independent school or to another agent, nor shall school licensure transfer upon a change in ownership of the institution.

(5) Each license granted by the board shall delineate the specific nondegree programs that the nonpublic school is authorized to offer. No such school shall conduct a program unless express authority is granted in its license.

(6) A diploma program offered by a nonpublic junior college, college, or university must be licensed by the board, notwithstanding the fact that such institution is concurrently subject to the jurisdiction of the State Board of Independent Colleges and Universities, if such program does the following:

(a) The program qualifies a student for employment or engagement in an occupation whose practice in this state does not require a degree.

(b) The program awards a diploma, as defined in s. 246.203(6), for successful completion, including any program that is organized to give students an option of exiting at a specified point and receiving a diploma, or continuing and receiving a degree, as defined in s. 246.021(5).

Section 20. Section 246.216, Florida Statutes, is created to read:

246.216 Exemption from licensure.—

(1) A person or entity which otherwise fits the definition of school in s. 246.203(1) shall be exempt from licensure if it meets the criteria specified in this section and applies to the board for a statement of exemption. The board shall issue a statement of exemption if it determines, based on all available information, that the applicant meets the following criteria:

(a) The entity is a church or religious organization whose programs of instruction include:

1. A religious modifier in the title of the program, immediately preceding the name of the occupation to which the instruction relates, and in the title of the diploma.

2. No representation, directly or by implication, that individuals who successfully complete the program will be qualified to be employed in the field to which the training relates by an employer other than a church or religious organization.

3. No students who receive state or federal financial aid to pursue the program;

(b) The person or entity is regulated by the Federal Aviation Administration, another agency of the Federal Government, or an agency of the state whose regulatory laws are similar in nature and purpose to those of the board and require minimum educational standards, for at least curriculum, instructors, and academic progress and provide protection against fraudulent, deceptive, and substandard education practices;

(c) The person or entity offers only examination preparation courses provided that:

1. A diploma as defined in s. 246.203(6) is not awarded.

2. The courses do not include state licensing examinations in occupations for which state laws do not require a licensee to have a bachelor's degree or higher academic or professional degree;

(d) The person or entity is:

1. An employer who offers training and trains only its own bona fide employees;

2. A trade or professional association or a group of employers in the same or related business who in writing agree to offer training and to train only individuals who are bona fide employees of an employer who is a member of the association or a party to the written agreement; or

3. An independent contractor engaged by any of the foregoing by written contract to provide the training on its behalf exclusively to individuals who are selected by the employer, association, or group which engaged the contractor and who are bona fide employees thereof.

For purposes of this paragraph, a bona fide employee is an individual who works for salary or wages paid by the employer in at least the minimum amount required by law;

(e) The entity is a labor union or group of labor unions which offers training to, and trains only, individuals who are dues paying members of a participating labor union; or the person or entity is an independent contractor engaged by the labor union or group of labor unions, by written contract, to provide the training on its behalf exclusively to individuals who are selected by the labor union or group of labor unions which engaged the contractor and who are dues paying members thereof;

(f) The person or entity offers only continuing education programs to individuals who engage in an occupation or profession whose practitioners are subject to licensure, certification, or registration by a state agency which recognizes the programs for continuing education purposes and provides a written statement of such recognition; or

(g) The person or entity offers a program of instruction whose objective is not occupational, but is avocational and only for personal enrichment and which:

1. Prior to enrollment, gives to each enrollee, and maintains a record copy of, a written statement which states substantially the following: "This program is not designed or intended to qualify its participants and graduates for employment in (the field to which the training pertains). It is intended solely for the avocation, personal enrichment, and enjoyment of its participants."

2. Makes no other verbal or written statements which negate the written statement required in subparagraph 1. by stating or implying that persons who enroll in or complete the program have any more substantial likelihood of getting employment in the field to which the training pertains than persons who do not.

3. Maintains and makes available to the board, upon request, records which demonstrate that each enrollee received the statement required by subparagraph 1. prior to enrollment.

To be eligible for the statement of exemption, the applicant must maintain records documenting its qualification for exemption. A person or entity which is exempt pursuant to this subsection and which is also a licensee for programs which do not qualify for exemption may not include in the catalog, contract, or advertising relating to its licensed program any reference to its unlicensed programs. This restriction does not apply to a licensee which voluntarily becomes licensed to offer programs which would otherwise qualify for exemption.

(2) The board shall revoke a statement of exemption if it determines, based on all available information, that the entity does not meet the criteria required in subsection (1) because of the following:

- (a) There has been a material change in circumstances or in the law;
- (b) The statement was erroneously issued as a result of false or misleading information provided by the applicant or other source;
- (c) There was a misunderstanding by the board of the information which it had considered; or
- (d) New information has been received.

Probable cause proceedings do not apply to the foregoing board decisions.

(3) The board may invoke the remedies provided in s. 246.227 when no application for a statement of exemption is pending; in conjunction with, or subsequent to, its notice of denial of an application; or in conjunction with, or subsequent to, its notice of revocation. The filing of a civil action pursuant to s. 246.227 shall have the effect of suspending administrative proceedings under this section unless the board takes a voluntary dismissal without prejudice in a judicial case. An order of the court which determines or renders moot an issue presented in suspended administrative proceedings shall be grounds for dismissal of the administrative proceeding as to that issue.

Section 21. Subsection (1) of section 246.219, Florida Statutes, is amended to read:

246.219 License fees.—

(1) Each initial application for a license to operate a nonpublic postsecondary career school shall be accompanied by a license fee of not less than \$500, and each application for the renewal of such license shall be accompanied by an annual license fee of at least \$300, provided that the fee for a biennial license shall be at least \$600. A fee shall be charged for a supplementary application for the approval of any additional field or course of instruction. Such fees shall be delineated, by rule, by the board.

Section 22. Section 246.220, Florida Statutes, is amended to read:

246.220 Surety bonds or insurance.—Surety bonds or insurance shall not be required of any school licensed by the State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools, except as may be required by the board to insure the train-out of projected or currently enrolled students, issuance of refunds to projected or currently enrolled students, payment of liabilities to the Student Protection Fund, or for the retrieval or safekeeping of student records.

Section 23. Subsections (1) and (4) of section 246.2265, Florida Statutes, are amended to read:

246.2265 Additional regulatory powers while disciplinary proceedings are pending; cease and desist orders.—

(1) The board may, in conjunction with an administrative complaint or notice of denial of licensure, issue cease and desist orders for the purpose of

protecting the health, safety, and welfare of students, prospective students, and the general public. Such orders may be mandatory or prohibitory in form and may order a nonpublic an independent postsecondary career institution, officer, employee, or agent to:

(a) Cease and desist from specified conduct which relates to acts or omissions stated in the administrative complaint or notice of denial of licensure; or

(b) Cease and desist from failing to engage in specified conduct which is necessary to achieve or preserve the regulatory purposes of ss. 246.201-246.231.

(4) The executive director of the board, with the approval of the chair of the board, may issue and deliver a cease and desist order to a nonpublic an independent postsecondary career institution.

Section 24. Subsections (2) and (3) of section 246.227, Florida Statutes, are amended to read:

246.227 Injunctive relief; unlicensed operation of a school; cease and desist notice; civil penalty.—

(2) An unlicensed nonpublic independent postsecondary career institution required to be licensed pursuant to ss. 246.201-246.231 that advertises or causes advertisements to be made public through which students are solicited for enrollment or are offered diplomas shall be in violation of the provisions of ss. 246.201-246.231. A licensed nonpublic independent postsecondary career institution that is under temporary or permanent injunction against operating or offering diplomas that advertises or causes advertisements to be made public through which students are solicited for enrollment or are offered diplomas shall be in violation of such injunctive order upon presentation to the court of the advertisement.

(3) The executive director of the board, with the approval of the chair of the board, may issue and deliver a cease and desist order to any nonpublic independent postsecondary career institution or agent required to be licensed pursuant to ss. 246.201-246.231 that is not so licensed. The board may file, in the name of the state, a proceeding which seeks issuance of an injunction against any person in violation of any provision of such order.

Section 25. Subsection (1) of section 246.31, Florida Statutes, is amended to read:

246.31 Institutional Assessment Trust Fund.—

(1) There is created an Institutional Assessment Trust Fund to be administered by the Department of Education pursuant to this section and rules of the State Board of Education. The trust fund shall consist of all fees and fines imposed upon nonpublic colleges and schools pursuant to this chapter, including all fees collected from nonpublic colleges for participation in the common course designation and numbering system. The department shall maintain separate revenue accounts for the State Board of Independent

Colleges and Universities; the State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools; and the Department of Education.

Section 26. Subsection (6) of section 20.15, Florida Statutes, is amended to read:

20.15 Department of Education.—There is created a Department of Education.

(6) COUNCILS AND COMMITTEES.—Notwithstanding anything contained in law to the contrary, the Commissioner of Education shall appoint all members of all councils and committees of the Department of Education, except the Board of Regents, the State Board of Community Colleges, the community college district boards of trustees, the Postsecondary Education Planning Commission, the Education Practices Commission, the Education Standards Commission, the State Board of Independent Colleges and Universities, the Florida Commission on Education Reform and Accountability, and the State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools.

Section 27. Subsection (5) of section 240.40204, Florida Statutes, is amended to read:

240.40204 Florida Bright Futures Scholarship Program; eligible postsecondary education institutions.—A student is eligible for an award or the renewal of an award from the Florida Bright Futures Scholarship Program if the student meets the requirements for the program as described in this act and is enrolled in a postsecondary education institution that meets the description in any one of the following subsections:

(5) A Florida independent postsecondary education institution that is licensed by the State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, or Business Schools and which:

(a) Has a program completion and placement rate of at least the rate required by the current Florida Statutes, the Florida Administrative Code, or the Department of Education for an institution at its level; and

(b) Shows evidence of sound financial condition; and either:

1. Is accredited at the institutional level by an accrediting agency recognized by the United States Department of Education and has operated in the state for at least 3 years during which there has been no complaint for which probable cause has been found; or

2. Has operated in Florida for 5 years during which there has been no complaint for which probable cause has been found.

Section 28. Subsection (3) of section 246.011, Florida Statutes, is amended to read:

246.011 Purpose.—

(3) It is the intent of the Legislature that a nonpublic college which offers both degrees and vocational certificates or diplomas shall be subject to the rules of the State Board of Independent Colleges and Universities as provided by ss. 246.011-246.151 and the State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools as provided by ss. 246.201-246.231.

Section 29. Subsection (3) of section 246.081, Florida Statutes, is amended to read:

246.081 License, certificate of exemption, or authorization required; exceptions.—

(3) No nonpublic college shall continue to conduct or begin to conduct any diploma program, as defined in s. 246.203, unless the college applies for and obtains from the State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools a license or authorization for such diploma program in the manner and form prescribed by the State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools.

Section 30. Subsection (3) of section 246.085, Florida Statutes, is amended to read:

246.085 Certificate of exemption.—

(3) Any college which holds a certificate of exemption and which conducts any diploma program, as defined in s. 246.203, shall be subject to licensure of such diploma program by the State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools.

Section 31. Subsection (3) of section 246.091, Florida Statutes, is amended to read:

246.091 License period and renewal.—

(3) A licensed college which seeks to conduct any diploma program, as defined in s. 246.203, shall apply to the State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools for licensure for such program.

Section 32. Subsection (1) of section 246.111, Florida Statutes, is amended to read:

246.111 Denial, probation, or revocation of license or certificate of exemption.—

(1) Any temporary license, provisional license, or regular license, agent's license, certificate of exemption, or other authorization required under the provisions of ss. 246.011-246.151 may be denied, placed on probation, or revoked by the board. A college which has its certificate of exemption revoked shall become subject to the licensing provisions of the board. The board shall promulgate rules for these actions. Placement of a college on

probation for a period of time and subject to such conditions as the board may specify may also carry the imposition of an administrative fine not to exceed \$5,000. Such fine shall be deposited into the Institutional Assessment Trust Fund. Disciplinary action undertaken pursuant to this section against a college that is also licensed by the State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools shall prompt disciplinary proceedings pursuant to s. 246.226.

Section 33. Subsection (1) of section 246.50, Florida Statutes, is amended to read:

246.50 Certified Teacher-Aide Welfare Transition Program; participation by independent postsecondary schools.—An independent postsecondary school may participate in the Certified Teacher-Aide Welfare Transition Program and may receive incentives for successful performance from the Performance Based Incentive Funding Program if:

(1) The school is accredited by the Southern Association of Colleges and Schools and licensed by the State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools;

Section 34. Section 455.2125, Florida Statutes, is amended to read:

455.2125 Consultation with postsecondary education boards prior to adoption of changes to training requirements.—Any state agency or board that has jurisdiction over the regulation of a profession or occupation shall consult with the State Board of Independent Colleges and Universities; the State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools; the Board of Regents; and the State Board of Community Colleges prior to adopting any changes to training requirements relating to entry into the profession or occupation. This consultation must allow the educational board to provide advice regarding the impact of the proposed changes in terms of the length of time necessary to complete the training program and the fiscal impact of the changes. The educational board must be consulted only when an institution offering the training program falls under its jurisdiction.

Section 35. Section 455.554, Florida Statutes, is amended to read:

455.554 Consultation with postsecondary education boards prior to adoption of changes to training requirements.—Any state agency or board that has jurisdiction over the regulation of a profession or occupation shall consult with the State Board of Independent Colleges and Universities; the State Board of Nonpublic Career Education Independent Postsecondary Vocational, Technical, Trade, and Business Schools; the Board of Regents; and the State Board of Community Colleges prior to adopting any changes to training requirements relating to entry into the profession or occupation. This consultation must allow the educational board to provide advice regarding the impact of the proposed changes in terms of the length of time necessary to complete the training program and the fiscal impact of the

changes. The educational board must be consulted only when an institution offering the training program falls under its jurisdiction.

Section 36. Subsection (8) of section 467.009, Florida Statutes, is amended to read:

467.009 Midwifery programs; education and training requirements.—

(8) Nonpublic educational institutions that conduct approved midwifery programs shall be accredited by a member of the Commission on Recognition of Postsecondary Accreditation and shall be licensed by the State Board of Nonpublic Career Education ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~.

Section 37. Section 476.178, Florida Statutes, is amended to read:

476.178 Schools of barbering; licensure.—No private school of barbering shall be permitted to operate without a license issued by the State Board of Nonpublic Career Education ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ pursuant to chapter 246. However, this section shall not be construed to prevent certification by the Department of Education of barber training programs within the public school system or to prevent government operation of any other program of barbering in this state.

Section 38. Section 477.023, Florida Statutes, is amended to read:

477.023 Schools of cosmetology; licensure.—No private school of cosmetology shall be permitted to operate without a license issued by the State Board of Nonpublic Career Education ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ pursuant to chapter 246. However, nothing herein shall be construed to prevent certification by the Department of Education of cosmetology training programs within the public school system or to prevent government operation of any other program of cosmetology in this state.

Section 39. Section 488.01, Florida Statutes, is amended to read:

488.01 License to engage in business of operating a driver's school required.—The Department of Highway Safety and Motor Vehicles shall oversee and license all commercial driver's schools except truck driving schools. All commercial truck driving schools shall be required to be licensed pursuant to chapter 246, and additionally shall be subject to the provisions of ss. 488.04 and 488.05. No person, group, organization, institution, business entity, or corporate entity may engage in the business of operating a driver's school without first obtaining a license therefor from the Department of Highway Safety and Motor Vehicles pursuant to this chapter or from the State Board of Nonpublic Career Education ~~Independent Postsecondary Vocational, Technical, Trade, and Business Schools~~ pursuant to chapter 246.

Section 40. Effective July 1, 1999, subsection (1) and paragraph (a) of subsection (6) of section 232.246, Florida Statutes, are amended to read:

232.246 General requirements for high school graduation.—

(1) Graduation requires successful completion of either a minimum of 24 academic credits in grades 9 through 12 or an International Baccalaureate curriculum. The 24 credits shall be distributed as follows:

(a) Four credits in English, with major concentration in composition and literature.

(b) Three credits in mathematics. Effective for students entering the 9th grade in the 1997-1998 school year and thereafter, one of these credits must be Algebra I, a series of courses equivalent to Algebra I, or a higher-level mathematics course.

(c) Three credits in science, two of which must have a laboratory component. The State Board of Education may grant an annual waiver of the laboratory requirement to a school district that certifies that its laboratory facilities are inadequate, provided the district submits a capital outlay plan to provide adequate facilities and makes the funding of this plan a priority of the school board.

(d) One credit in American history.

(e) One credit in world history, including a comparative study of the history, doctrines, and objectives of all major political systems.

(f) One-half credit in economics, including a comparative study of the history, doctrines, and objectives of all major economic systems. The Florida Council on Economic Education shall provide technical assistance to the department and local school boards in developing curriculum materials for the study of economics.

(g) One-half credit in American government, including study of the Constitution of the United States. For students entering the 9th grade in the 1997-1998 school year and thereafter, the study of Florida government, including study of the State Constitution, the three branches of state government, and municipal and county government, shall be included as part of the required study of American government.

(h)1. One credit in practical arts career education or exploratory career education. Any vocational course as defined in s. 228.041(22) may be taken to satisfy the high school graduation requirement for one credit in practical arts or exploratory career education provided in this subparagraph;

2. One credit in performing fine arts to be selected from music, dance, drama, painting, or sculpture. A course in any art form, in addition to painting or sculpture, that requires manual dexterity, or a course in speech and debate, may be taken to satisfy the high school graduation requirement for one credit in performing arts pursuant to this subparagraph; or

3. One-half credit each in practical arts career education or exploratory career education and performing fine arts, as defined in this paragraph.

Such credit for practical arts career education or exploratory career education or for performing fine arts shall be made available in the 9th grade, and students shall be scheduled into a 9th grade course as a priority.

(i) ~~One-half~~ credit in life management skills to include consumer education, positive emotional development, nutrition, prevention of human immunodeficiency virus infection and acquired immune deficiency syndrome and other sexually transmissible diseases, benefits of sexual abstinence and consequences of teenage pregnancy, information and instruction on breast cancer detection and breast self-examination, cardiopulmonary resuscitation, drug education, and the hazards of smoking. Such credit shall be given for a course to be taken by all students in either the 9th or 10th grade.

(j) ~~One~~ ~~One-half~~ credit in physical education to include assessment, improvement, and maintenance of personal fitness. Participation in an interscholastic sport, ~~whether at the freshman, junior varsity, or varsity level, for two a full seasons season,~~ shall satisfy the ~~one-credit one-half credit~~ requirement in physical education if the student passes a competency test on personal fitness with a score of "C" or better. The competency test on personal fitness must be developed by the Department of Education. A school board may not require that the one credit in physical education be taken during the 9th grade year.

(k) ~~Eight and one-half~~ Nine elective credits.

School boards may award a maximum of one-half credit in social studies and one-half elective credit for student completion of nonpaid voluntary community or school service work. Students choosing this option must complete a minimum of 75 hours of service in order to earn the one-half credit in either category of instruction. Credit may not be earned for service provided as a result of court action. School boards that approve the award of credit for student volunteer service shall develop guidelines regarding the award of the credit, and school principals are responsible for approving specific volunteer activities. A course designated in the Course Code Directory as grade 9 through grade 12 which is taken below the 9th grade may be used to satisfy high school graduation requirements or Florida Academic Scholars award ~~Scholar's Certificate Program~~ requirements as specified in a district's pupil progression plan.

(6) The Legislature recognizes that adult learners are unique in situation and needs. The following graduation requirements are therefore instituted for students enrolled in adult general education in accordance with s. 239.301 in pursuit of a high school diploma:

(a) The ~~one one-half~~ credit in physical education required for graduation, pursuant to subsection (1), is not required for graduation and shall be substituted with elective credit keeping the total credits needed for graduation consistent with subsection (1).

Section 41. Section 233.0616, Florida Statutes, is created to read:

233.0616 Personal fitness programs.—Each elementary school and middle school is encouraged to implement a personal fitness program, approved

by the Department of Education, that complies with American Heart Association guidelines for elementary school and middle school personal fitness courses. From incentive funds provided in the General Appropriations Act, the Department of Education shall allocate funds to schools implementing personal fitness programs pursuant to this section.

Section 42. From funds provided in the General Appropriations Act, the Department of Education shall allocate funds to provide for an additional one-fourth-time position to upgrade the physical education specialist position in the department from a three-fourths-time position to a full-time position.

Section 43. Subsections (3) and (13) of section 240.61, Florida Statutes, are amended to read:

240.61 College reach-out program.—

(3) To participate in the college reach-out program, a community college, a public university, or an independent postsecondary institution ~~that is participating in a special program for students from disadvantaged backgrounds pursuant to 20 U.S.C., ss. 1070d et seq.~~ may submit a proposal to the Department of Education. The State Board of Education shall consider the proposals and determine which proposals to implement as programs that will strengthen the educational motivation and preparation of low-income educationally disadvantaged students.

(13) ~~By February 15 January 15~~ of each year, the Postsecondary Education Planning Commission shall submit to the President of the Senate, the Speaker of the House of Representatives, the Commissioner of Education, and the Governor a report that evaluates the effectiveness of the college reach-out program. The report must be based upon information provided by participating institutions, the Division of Universities, the Division of Community Colleges, and the Division of Workforce Development pursuant to subsections (7) and (12). ~~The evaluation must include longitudinal cohort assessments of college reach-out program participants from their entry into the program to their graduation from postsecondary institutions.~~ To the extent feasible, the performance of college reach-out program participants must be compared to the performance of comparable cohorts of students in public school and postsecondary education.

Section 44. Sections 240.154, 240.278, 240.521, 240.522, 240.523, and 240.525, Florida Statutes, are repealed.

Section 45. Subsection (4) of section 216.136, Florida Statutes, is amended to read:

216.136 Consensus estimating conferences; duties and principals.—

(4) EDUCATION ESTIMATING CONFERENCE.—

(a) Duties.—The Education Estimating Conference shall develop such official information relating to the state public educational system, including forecasts of student enrollments, the number of students qualified for

state financial aid programs and the appropriation required to fund the full award amounts for each program, fixed capital outlay needs, and Florida Education Finance Program formula needs, as the conference determines is needed for the state planning and budgeting system. The conference's initial projections of enrollments in public schools shall be forwarded by the conference to each school district no later than 2 months prior to the start of the regular session of the Legislature. Each school district may, in writing, request adjustments to the initial projections. Any adjustment request shall be submitted to the conference no later than 1 month prior to the start of the regular session of the Legislature and shall be considered by the principals of the conference. A school district may amend its adjustment request, in writing, during the first 3 weeks of the legislative session, and such amended adjustment request shall be considered by the principals of the conference. For any adjustment so requested, the district shall indicate and explain, using definitions adopted by the conference, the components of anticipated enrollment changes that correspond to continuation of current programs with workload changes; program improvement; program reduction or elimination; initiation of new programs; and any other information that may be needed by the Legislature. For public schools, the conference shall submit its full-time equivalent student consensus estimate to the Legislature no later than 1 month after the start of the regular session of the Legislature. No conference estimate may be changed without the agreement of the full conference.

(b) Adjustments.—No later than 2 months prior to the start of the regular session of the Legislature, the conference shall forward to each eligible postsecondary education institution its initial projections of the number of students qualified for state financial aid programs and the appropriation required to fund those students at the full award amount. Each postsecondary education institution may request, in writing, adjustments to the initial projection. Any adjustment request must be submitted to the conference no later than 1 month prior to the start of the regular session of the Legislature and shall be considered by the principals of the conference. For any adjustment so requested, the postsecondary education institution shall indicate and explain, using definitions adopted by the conference, the components of anticipated changes that correspond to continuation of current programs with enrollment changes, program reduction or elimination, initiation of new programs, award amount increases or decreases, and any other information that is considered by the conference. The conference shall submit its consensus estimate to the Legislature no later than 1 month after the start of the regular session of the Legislature. No conference estimate may be changed without the agreement of the full conference.

(c)(b) Principals.—The Associate Deputy Commissioner for Educational Management, the Executive Office of the Governor, the director of the Division of Economic and Demographic Research of the Joint Legislative Management Committee, and professional staff of the Senate and House of Representatives who have forecasting expertise, or their designees, are the principals of the Education Estimating Conference. The Associate Deputy Commissioner for Educational Management or his or her designee shall preside over sessions of the conference.

Section 46. Effective July ~~January~~ 1, 1999, section 240.409, Florida Statutes, is amended to read:

240.409 Florida Public Student Assistance Grant Program; eligibility for grants.—

(1) There is hereby created a Florida Public Student Assistance Grant Program. The program shall to be administered by the participating institutions ~~Department of Education~~ in accordance with rules of the state board.

(2)(a) State student assistance grants through the program may be made only to full-time degree-seeking students who meet the general requirements for student eligibility as provided in s. 240.404, except as otherwise provided in this section. Such grants shall be awarded annually for the amount of demonstrated unmet need for the cost of education and may not exceed an amount equal to the average prior academic year cost of ~~tuition and matriculation fees~~ and other registration fees for 30 credit hours at state universities or such other amount as specified in the General Appropriations Act, to any recipient. A demonstrated unmet need of less than \$200 shall render the applicant ineligible for a state student assistance grant. Recipients of such grants must have been accepted at a state university or community college authorized by Florida law. No student may receive an award for more than the equivalent of 9 semesters or 14 quarters of full-time enrollment ~~in a period of not more than 6 consecutive years~~, except as otherwise provided in s. 240.404(3).

(b) A student applying for a Florida public student assistance grant shall be required to apply for the Pell Grant. The Pell Grant entitlement shall be considered ~~by the department~~ when conducting an assessment of the financial resources available to each student.

(c) ~~The criteria and procedure for establishing standards of eligibility shall be determined by the department. The department is directed to establish a rating system upon which to base the approval of grants, and such system shall include a certification of acceptability by the state university or community college of the applicant's choice and the use of a nationally recognized system of need analysis. Priority in the distribution of grant moneys shall be given to students with the lowest total family resources, in accordance with a nationally recognized system of need analysis as determined pursuant to this subsection, taking into consideration the receipt of Pell Grants and student contributions to educational costs. Using the system of need analysis, the department shall establish a maximum expected family contribution. An institution may not make a grant from this program to a student whose expected family contribution exceeds the level established by the department. An institution may not impose additional criteria to determine a student's eligibility to receive a grant award.~~

(d) Each participating institution shall report, to the department by the established date, the eligible students to whom grant moneys are disbursed each academic term. Each institution shall also report to the department necessary demographic and eligibility data for such students. The department is directed to establish, for fall enrollment, an initial application deadline for students attending all eligible institutions and an additional applica-

~~tion deadline for community college applicants who apply after the initial application deadline. The second community college deadline shall be at the close of each institution's drop-add period. The department shall reserve an amount to be designated annually in the General Appropriations Act for the purpose of providing awards to community college students who apply for a student assistance grant after the initial application deadline. Community college applicants who apply during the initial application period and are eligible to receive an award, but do not receive an award because of insufficient funds, shall have their applications reconsidered with those community college applicants who apply after the initial application deadline. The provisions of this paragraph shall take effect beginning with the 1990-1991 academic year.~~

(3) ~~Based on the unmet financial need of an eligible applicant, the full amount of a Florida public student assistance grant must be between \$200 and the weighted average of the cost of matriculation and other registration fees for 30 credit hours at state universities \$1,500 per academic year or the amount specified in the General Appropriations Act. When funds are not sufficient to make full awards to all eligible applicants, the department shall reduce the amount of each recipient's grant award pro rata. For any year in which a pro rata grant reduction is necessary, such adjustment shall be made by reducing the second semester or the second and third quarter award disbursements to grant recipients. In each such instance, institutions shall notify students of award adjustments.~~

(4) ~~In the event that a Florida public student assistance grant recipient transfers from one institution eligible under this section, s. 240.4095, or s. 240.4097 to another, his or her eligibility shall be transferable upon approval of the department. When approved by the department, the amount of the unmet need shall be recalculated for the new institution and shall be adjusted accordingly.~~

(4)(5)(a) The funds appropriated for the Florida Public Student Assistance Grant shall be distributed to eligible institutions in accordance with a formula recommended by the Department of Education's Florida Council of Student Financial Aid Advisors and reviewed by the Postsecondary Education Planning Commission, the State Board of Community Colleges, and the Board of Regents. The formula shall consider at least the prior year's distribution of funds, the number of full-time eligible applicants who did not receive awards, the standardization of the expected family contribution, and provisions for unused funds.

(b) ~~Payment of Florida public student assistance grants shall~~ may be transmitted to the president of the state university or community college ~~which the recipient is attending, or to his or her representative, in advance of the registration period. Institutions shall notify students of the amount of their awards.~~

(c)(b) ~~Institutions shall certify to the department, within 30 days of the end of regular registration, the eligibility status of each awarded student. The eligibility status of each student to receive a disbursement shall be determined by each institution as of the end of its regular registration~~

period, inclusive of a drop-add period. Institutions shall not be required to reevaluate a student's eligibility status after this date for purposes of ~~changing~~ amending eligibility determinations previously made. ~~However, an institution shall be required to make refunds for students who receive award disbursements and terminate enrollment for any reason during the academic term when an institution's refund policies permit a student to receive a refund under these circumstances.~~

~~(d)(e)~~ Institutions shall certify to the department the amount of funds disbursed to each student and shall remit to the department any undisbursed advances by June 1 of each year ~~within 60 days of the end of regular registration.~~

~~(5)(6)~~ Funds appropriated by the Legislature for state student assistance grants shall be deposited in the State Student Financial Assistance Trust Fund. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year that has been allocated to the Florida Public Student Assistance Grant Program shall remain therein and shall be available for carrying out the purposes of this section.

~~(6)(7)~~ The State Board of Education shall establish rules necessary to implement this section.

Section 47. Effective July 1, 1999, section 240.4095, Florida Statutes, is amended to read:

240.4095 Florida Private Student Assistance Grant Program; eligibility for grants.—

(1) There is hereby created a Florida Private Student Assistance Grant Program. The program shall ~~to~~ be administered by the participating institutions ~~Department of Education~~ in accordance with rules of the state board.

(2)(a) Florida private student assistance grants from the State Student Financial Assistance Trust Fund may be made only to full-time degree-seeking students who meet the general requirements for student eligibility as provided in s. 240.404, except as otherwise provided in this section. Such grants shall be awarded for the amount of demonstrated unmet need for tuition and fees and may not exceed an amount equal to the average matriculation and other registration fees for 30 credit hours at state universities plus \$1,000 ~~a total of \$1,500~~ per academic year, or as specified in the General Appropriations Act, to any applicant. A demonstrated unmet need of less than \$200 shall render the applicant ineligible for a Florida private student assistance grant. Recipients of such grants must have been accepted at a baccalaureate-degree-granting independent nonprofit college or university, which is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools, ~~and which has a secular purpose,~~ and which is located in and chartered as a domestic corporation by the state. No student may receive an award for more than the equivalent of 9 semesters or 14 quarters of full-time enrollment in a period of not more than 6 consecutive years, except as otherwise provided in s. 240.404(3).

(b) A student applying for a Florida private student assistance grant shall be required to apply for the Pell Grant. The Pell Grant entitlement shall be considered ~~by the department~~ when conducting an assessment of the financial resources available to each student.

~~(c) The criteria and procedure for establishing standards of eligibility shall be determined by the department. The department is directed to establish a rating system upon which to base the approval of grants, including the use of a nationally recognized system of need analysis. The system shall include a certification of acceptability by the independent nonprofit college or university of the applicant's choice. Priority in the distribution of grant moneys shall be given to students with the lowest total family resources, in accordance with a nationally recognized system of need analysis as determined pursuant to this subsection, taking into consideration the receipt of Pell Grants and student contributions to educational costs. Using the system of need analysis, the department shall establish a maximum expected family contribution. An institution may not make a grant from this program to a student whose expected family contribution exceeds the level established by the department. An institution may not impose additional criteria to determine a student's eligibility to receive a grant award.~~

~~(d) Each participating institution shall report, to the department by the established date, the eligible students to whom grant moneys are disbursed each academic term. Each institution shall also report to the department necessary demographic and eligibility data for such students.~~

(3) Based on the unmet financial need of an eligible applicant, the full amount of a Florida private student assistance grant must be between \$200 and the average cost of matriculation and other registration fees for 30 credit hours at state universities plus \$1,000 ~~\$1,500~~ per academic year or the amount specified in the General Appropriations Act. ~~When funds are not sufficient to make full awards to all eligible applicants, the department shall reduce the amount of each recipient's grant award pro rata. For any year in which a pro rata grant reduction is necessary, such adjustment shall be made by reducing the second semester or the second and third quarter award disbursements to grant recipients. In each such instance, institutions shall notify students of award adjustments.~~

~~(4) In the event that a Florida private student assistance grant recipient transfers from one institution eligible under this section, s. 240.409, or s. 240.4097 to another, his or her eligibility shall be transferable upon approval of the department. When approved by the department, the amount of the unmet need shall be recalculated for the new institution and shall be adjusted accordingly.~~

(4)(5)(a) The funds appropriated for the Florida Private Student Assistance Grant shall be distributed to eligible institutions in accordance with a formula recommended by the Department of Education's Florida Council of Student Financial Aid Advisors and reviewed by the Postsecondary Education Planning Commission and the Independent Colleges and Universities of Florida. The formula shall consider at least the prior year's distribution of funds, the number of full-time eligible applicants who did not receive

awards, the standardization of the expected family contribution, and provisions for unused funds.

(b) Payment of Florida private student assistance grants shall ~~may~~ be transmitted to the president of the college or university ~~which the recipient is attending~~, or to his or her representative, in advance of the registration period. Institutions shall notify students of the amount of their awards.

~~(c)(b) Institutions shall certify to the department, within 30 days of the end of regular registration, the eligibility status of each awarded student. The eligibility status of each student to receive a disbursement shall be determined by each institution as of the end of its regular registration period, inclusive of a drop-add period. Institutions shall not be required to reevaluate a student's eligibility status after this date for purposes of changing amending eligibility determinations previously made. However, an institution shall be required to make refunds for students who receive award disbursements and terminate enrollment for any reason during the academic term when an institution's refund policies permit a student to receive a refund under these circumstances.~~

~~(d)(e) Institutions shall certify to the department the amount of funds disbursed to each student and shall remit to the department any undisbursed advances by June 1 of each year within 60 days of the end of regular registration.~~

~~(e)(d) Each institution that receives moneys through the Florida Private Student Assistance Grant Program shall cause to be prepared a biennial report that includes an independent external audit of the institution's administration of the program and a complete accounting of moneys in the State Student Financial Assistance Trust Fund allocated to the institution for the program. Such report shall be submitted to the department on or before March 1 every other year. The department may conduct its own annual or biennial audit of an institution's administration of the program and its allocated funds in lieu of the required biennial report and independent external audit. The department may suspend or revoke an institution's eligibility to receive future moneys from the trust fund for the program or request a refund of any moneys overpaid to the institution through the trust fund for the program if the department finds that an institution has not complied with the provisions of this section. Any refund requested pursuant to this paragraph shall be remitted within 60 days.~~

~~(5)(6) Funds appropriated by the Legislature for Florida private student assistance grants shall be deposited in the State Student Financial Assistance Trust Fund. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year that has been allocated to the Florida Private Student Assistance Grant Program shall remain therein and shall be available for carrying out the purposes of this section and as otherwise provided by law.~~

~~(6)(7) The State Board of Education shall adopt rules necessary to implement this section.~~

Section 48. Effective July 1, 1999, section 240.4097, Florida Statutes, is amended to read:

240.4097 Florida Postsecondary Student Assistance Grant Program; eligibility for grants.—

(1) There is hereby created a Florida Postsecondary Student Assistance Grant Program. ~~The program shall~~ to be administered by the participating institutions ~~Department of Education~~ in accordance with rules of the state board.

(2)(a) Florida postsecondary student assistance grants through the State Student Financial Assistance Trust Fund may be made only to full-time degree-seeking students who meet the general requirements for student eligibility as provided in s. 240.404, except as otherwise provided in this section. Such grants shall be awarded for the amount of demonstrated unmet need for tuition and fees and may not exceed an amount equal to the average prior-academic-year cost of matriculation and other registration fees for 30 credit hours at state universities plus \$1,000 a total of \$1,500 per academic year, or as specified in the General Appropriations Act, to any applicant. A demonstrated unmet need of less than \$200 shall render the applicant ineligible for a Florida postsecondary student assistance grant. Recipients of such grants must have been accepted at a postsecondary institution that is located in and chartered as a domestic corporation by the state and that is:

1. A private nursing diploma school approved by the Florida Board of Nursing; or

2. An institution either licensed by the State Board of Independent Colleges and Universities or exempt from licensure pursuant to s. 246.085(1)(a), excluding those institutions the students of which are eligible to receive a Florida private student assistance grant pursuant to s. 240.4095.

No student may receive an award for more than the equivalent of 9 semesters or 14 quarters of full-time enrollment in a period of not more than 6 consecutive years, except as otherwise provided in s. 240.404(3).

(b) A student applying for a Florida postsecondary student assistance grant shall be required to apply for the Pell Grant. The Pell Grant entitlement shall be considered ~~by the department~~ when conducting an assessment of the financial resources available to each student.

(c) ~~The criteria and procedure for establishing standards of eligibility shall be determined by the department. The department is directed to establish a rating system upon which to base the approval of grants, including the use of a nationally recognized system of need analysis. The system shall include a certification of acceptability by the school of the applicant's choice. Priority in the distribution of grant moneys shall be given to students with the lowest total family resources, in accordance with a nationally recognized system of need analysis as determined pursuant to this subsection, taking into consideration the receipt of Pell Grants and student contributions to~~

educational costs. Using the system of need analysis, the department shall establish a maximum expected family contribution. An institution may not make a grant from this program to a student whose expected family contribution exceeds the level established by the department. An institution may not impose additional criteria to determine a student's eligibility to receive a grant award.

(d) Each participating institution shall report, to the department by the established date, the eligible students to whom grant moneys are disbursed each academic term. Each institution shall also report to the department necessary demographic and eligibility data for such students.

~~(3) Based on the unmet financial need of an eligible applicant, the full amount of a Florida postsecondary student assistance grant must be between \$200 and the average cost of matriculation and other registration fees for 30 credit hours at state universities plus \$1,000 \$1,500 per academic year or the amount specified in the General Appropriations Act. When funds are not sufficient to make full awards to all eligible applicants, the department shall reduce the amount of each recipient's grant award pro rata. For any year in which a pro rata grant reduction is necessary, such adjustment shall be made by reducing the second semester or the second and third quarter award disbursements to grant recipients. In each such instance, institutions shall notify students of award adjustments.~~

~~(4) In the event that a student assistance grant recipient transfers from one institution eligible under this section, s. 240.409, or s. 240.4095 to another, his or her eligibility shall be transferable upon approval of the department. When approved by the department, the amount of the unmet need shall be recalculated for the new institution and shall be adjusted accordingly.~~

(4)(5)(a) The funds appropriated for the Florida Postsecondary Student Assistance Grant shall be distributed to eligible institutions in accordance with a formula recommended by the Department of Education's Florida Council of Student Financial Aid Advisors and reviewed by the Postsecondary Education Planning Commission and the Florida Association of Postsecondary Schools and Colleges. The formula shall consider at least the prior year's distribution of funds, the number of full-time eligible applicants who did not receive awards, the standardization of the expected family contribution, and provisions for unused funds.

(b) Payment of Florida postsecondary student assistance grants shall may be transmitted to the president of the eligible institution which the recipient is attending, or to his or her representative, in advance of the registration period. Institutions shall notify students of the amount of their awards.

~~(c)(b) Institutions shall certify to the department, within 30 days of the end of regular registration, the eligibility status of each awarded student. The eligibility status of each student to receive a disbursement shall be determined by each institution as of the end of its regular registration period, inclusive of a drop-add period. Institutions shall not be required to~~

reevaluate a student's eligibility status after this date for purposes of changing amending eligibility determinations previously made. ~~However, an institution shall be required to make refunds for students who receive award disbursements and terminate enrollment for any reason during the academic term when an institution's refund policies permit a student to receive a refund under these circumstances.~~

(d)(e) Institutions shall certify to the department the amount of funds disbursed to each student and shall remit to the department any undisbursed advances by June 1 of each year within 60 days of the end of regular registration.

(e)(d) Each institution that receives moneys through the Florida Postsecondary Student Assistance Grant Program shall cause to be prepared a biennial report that includes an independent external audit of the institution's administration of the program and a complete accounting of moneys in the State Student Financial Assistance Trust Fund allocated to the institution for the program. Such report shall be submitted to the department on or before March 1 every other year. The department may conduct its own annual or biennial audit of an institution's administration of the program and its allocated funds in lieu of the required biennial report and independent external audit. The department may suspend or revoke an institution's eligibility to receive future moneys from the trust fund for the program or request a refund of any moneys overpaid to the institution through the trust fund for the program if the department finds that an institution has not complied with the provisions of this section. Any refund requested pursuant to this paragraph shall be remitted within 60 days.

(5)(6) Any institution that was eligible to receive state student assistance grants on January 1, 1989, and that is not eligible to receive grants pursuant to s. 240.4095 is eligible to receive grants pursuant to this section.

(6)(7) Funds appropriated by the Legislature for Florida postsecondary student assistance grants shall be deposited in the State Student Financial Assistance Trust Fund. Notwithstanding the provisions of s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year that has been allocated to the Florida Postsecondary Student Assistance Grant Program shall remain therein and shall be available for carrying out the purposes of this section and as otherwise provided by law.

(7)(8) The State Board of Education shall adopt rules necessary to implement this section.

Section 49. Section 240.551, Florida Statutes, is amended to read:

240.551 Florida Prepaid College Postsecondary Education Expense Program.—

(1) LEGISLATIVE INTENT.—The Legislature recognizes that educational opportunity at the postsecondary level is a critical state interest. It further recognizes that educational opportunity is best ensured through the provision of postsecondary institutions that are geographically and financially accessible. Accordingly, it is the intent of the Legislature that a pro-

gram be established through which many of the costs associated with postsecondary attendance may be paid in advance and fixed at a guaranteed level for the duration of undergraduate enrollment. It is similarly the intent of the Legislature to provide a program that fosters timely financial planning for postsecondary attendance and to encourage employer participation in such planning through program contributions on behalf of employees and the dependents of employees.

(2) DEFINITIONS.—~~As used in this section:~~

(a) “Advance payment contract” means a contract entered into by the board and a purchaser pursuant to this section.

(b) “Board” means the Florida Prepaid College Postsecondary Education Expense Board.

(c) “Fund” means the Florida Prepaid College Postsecondary Education Expense Trust Fund.

~~(d)(g)~~ “Program” means the Florida Prepaid College Postsecondary Education Expense Program.

~~(e)(d)~~ “Purchaser” means a person who makes or is obligated to make advance registration or dormitory residence payments in accordance with an advance payment contract.

~~(f)(e)~~ “Qualified beneficiary” means:

1. A resident of this state at the time a purchaser enters into an advance payment contract on behalf of the resident;

2. A nonresident who is the child of a noncustodial parent who is a resident of this state at the time that such parent enters into an advance payment contract on behalf of the child; or

3. For purposes of advance payment contracts entered into pursuant to ~~subsection (22) paragraph (5)(j)~~, a graduate of an accredited high school in this state who is a resident of this state at the time he or she is designated to receive the benefits of the advance payment contract.

~~(g)(h)~~ “Registration fee” means matriculation fee, financial aid fee, building fee, and Capital Improvement Trust Fund fee.

~~(h)(f)~~ “State postsecondary institution” means any community college identified in s. 240.3031 or university identified in s. 240.2011.

(3) FLORIDA PREPAID COLLEGE PROGRAM; CREATION.—There is created a Florida Prepaid College Postsecondary Education Expense Program to provide a medium through which the cost of registration and dormitory residence may be paid in advance of enrollment in a state postsecondary institution at a rate lower than the projected corresponding cost at the time of actual enrollment. Such payments shall be combined and invested in a manner that yields, at a minimum, sufficient interest to generate the difference between the prepaid amount and the cost of registration and dormitory

residence at the time of actual enrollment. Students who enroll in a state postsecondary institution pursuant to this section shall be charged no fees in excess of the terms delineated in the advance payment contract.

(4) FLORIDA PREPAID COLLEGE TRUST FUND.—There is created within the State Board of Administration the Florida Prepaid College Postsecondary Education Expense Trust Fund. The fund shall consist of state appropriations, moneys acquired from other governmental or private sources, and moneys remitted in accordance with advance payment contracts. All funds deposited into the trust fund may be invested pursuant to s. 215.47; ~~however, such investment shall not be mandatory.~~ Dividends, interest, and gains accruing to the trust fund shall increase the total funds available for the program. Notwithstanding the provisions of chapter 717, funds associated with terminated contracts ~~terminated~~ pursuant to subsection (12) paragraph (6)(d) and canceled contracts for which no refunds have been claimed shall increase the total funds available for the program. However, the board shall establish procedures for notifying purchasers who subsequently cancel their contracts of any unclaimed refund and shall establish a time period after which no refund may be claimed by a purchaser who canceled a contract. Any balance contained within the fund at the end of a fiscal year shall remain therein and shall be available for carrying out the purposes of the program. In the event that dividends, interest, and gains ~~exceed~~ exceeds the amount necessary for program administration and disbursements, the board may designate an additional percentage of the fund to serve as a contingency fund. Moneys contained within the fund shall be exempt from the investment requirements of s. 18.10. Any funds of a direct-support organization created pursuant to subsection (22) paragraph (5)(j) shall be exempt from the provisions of this subsection paragraph.

(5) PROGRAM ADMINISTRATION.—

(a) The Florida Prepaid College ~~Postsecondary Education Expense Program~~ shall be administered by the Florida Prepaid College Postsecondary Education Expense Board as an agency of the state. The Florida Prepaid College Postsecondary Education Expense Board is hereby created as a body corporate with all the powers of a body corporate for the purposes delineated in this section. For the purposes of s. 6, Art. IV of the State Constitution, the board shall be assigned to and administratively housed within the State Board of Administration, but it shall independently exercise the powers and duties specified in this section.

(b) The board shall consist of seven members to be composed of the Insurance Commissioner and Treasurer, the Comptroller, the Chancellor of the Board of Regents, the Executive Director of the State Board of Community Colleges, and three members appointed by the Governor and subject to confirmation by the Senate. Each member appointed by the Governor shall possess knowledge, skill, and experience in the areas of accounting, actuary, risk management, or investment management. Each member of the board not appointed by the Governor may name a designee to serve the board on behalf of the member; however, any designee so named shall meet the qualifications required of gubernatorial appointees to the board. Members appointed by the Governor shall serve terms of 3 years ~~except that, in~~

making the initial appointments, the Governor shall appoint one member to serve for 1 year, one member to serve for 2 years, and one member to serve for 3 years. Any person appointed to fill a vacancy on the board shall be appointed in a like manner and shall serve for only the unexpired term. Any member shall be eligible for reappointment and shall serve until a successor qualifies. Members of the board shall serve without compensation but shall be reimbursed for per diem and travel in accordance with s. 112.061. Each member of the board shall file a full and public disclosure of his or her financial interests pursuant to s. 8, Art. II of the State Constitution and corresponding statute.

~~(c)(a) The Governor shall appoint a member of the board to serve as the initial chair of the board. Thereafter, the board shall elect a chair annually. The board shall annually elect a board member to serve as chair and a board member to serve as vice chair and shall designate a secretary-treasurer who need not be a member of the board. The secretary-treasurer shall keep a record of the proceedings of the board and shall be the custodian of all printed material filed with or by the board and of its official seal. Notwithstanding the existence of vacancies on the board, a majority of the members shall constitute a quorum. The board shall take no official action in the absence of a quorum. The board shall meet, at a minimum, on a quarterly basis at the call of the chair.~~

(6) FLORIDA PREPAID COLLEGE BOARD; DUTIES.—The board shall:

~~(a)(b) The board shall~~ Appoint an executive director to serve as the chief administrative and operational officer of the board and to perform other duties assigned to him or her by the board.

(b) Administer the fund in a manner that is sufficiently actuarially sound to defray the obligations of the program. The board shall annually evaluate or cause to be evaluated the actuarial soundness of the fund. If the board perceives a need for additional assets in order to preserve actuarial soundness, the board may adjust the terms of subsequent advance payment contracts to ensure such soundness.

(c) Establish a comprehensive investment plan for the purposes of this section with the approval of the State Board of Administration. The comprehensive investment plan shall specify the investment policies to be utilized by the board in its administration of the fund. The board may place assets of the fund in savings accounts or use the same to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the comprehensive investment plan and in such proportions as may be designated or approved under that plan. Such insurance, annuity, savings, or investment products shall be underwritten and offered in compliance with the applicable federal and state laws, regulations, and rules by persons who are duly authorized by applicable federal and state authorities. Within the comprehensive investment plan, the board may authorize investment vehicles, or products incident thereto, as may be available or offered by qualified companies or persons. A contract purchaser may not direct the investment of his or her contribution to the

trust fund and a contract beneficiary may not direct the contribution made on his or her behalf to the trust fund. Board members and employees of the board are not prohibited from purchasing advance payment contracts by virtue of their fiduciary responsibilities as members of the board or official duties as employees of the board.

(d) Solicit proposals and contract, pursuant to s. 287.057, for the marketing of the Florida Prepaid College Program. The entity designated pursuant to this paragraph shall serve as a centralized marketing agent for the program and shall be solely responsible for the marketing of the program. Any materials produced for the purpose of marketing the program shall be submitted to the board for review. No such materials shall be made available to the public before the materials are approved by the board. Any educational institution may distribute marketing materials produced for the program; however, all such materials shall have been approved by the board prior to distribution. Neither the state nor the board shall be liable for misrepresentation of the program by a marketing agent.

(e) Solicit proposals and contract, pursuant to s. 287.057, for a trustee services firm to select and supervise investment programs on behalf of the board. The goals of the board in selecting a trustee services firm shall be to obtain the highest standards of professional trustee services, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to the purchasers at the lowest cost possible. The trustee services firm shall agree to meet the obligations of the board to qualified beneficiaries if moneys in the fund fail to offset the obligations of the board as a result of imprudent selection or supervision of investment programs by such firm. Evaluations of proposals submitted pursuant to this paragraph shall include, but not be limited to, the following criteria:

1. Adequacy of trustee services for supervision and management of the program, including current operations and staff organization and commitment of management to the proposal.

2. Capability to execute program responsibilities within time and regulatory constraints.

3. Past experience in trustee services and current ability to maintain regular and continuous interactions with the board, records administrator, and product provider.

4. The minimum purchaser participation assumed within the proposal and any additional requirements of purchasers.

5. Adequacy of technical assistance and services proposed for staff.

6. Adequacy of a management system for evaluating and improving overall trustee services to the program.

7. Adequacy of facilities, equipment, and electronic data processing services.

8. Detailed projections of administrative costs, including the amount and type of insurance coverage, and detailed projections of total costs.

(f) Solicit proposals and contract, pursuant to s. 287.057, for product providers to develop investment portfolios on behalf of the board to achieve the purposes of this section. Product providers shall be limited to authorized insurers as defined in s. 624.09, banks as defined in s. 658.12, associations as defined in s. 665.012, authorized Securities and Exchange Commission investment advisers, and investment companies as defined in the Investment Company Act of 1940. All product providers shall have their principal place of business and corporate charter located and registered in the United States. In addition, each product provider shall agree to meet the obligations of the board to qualified beneficiaries if moneys in the fund fail to offset the obligations of the board as a result of imprudent investing by such provider. Each authorized insurer shall evidence superior performance overall on an acceptable level of surety in meeting its obligations to its policyholders and other contractual obligations. Only qualified public depositories approved by the Insurance Commissioner and Treasurer shall be eligible for board consideration. Each investment company shall provide investment plans as specified within the request for proposals. The goals of the board in selecting a product provider company shall be to provide all purchasers with the most secure, well-diversified, and beneficially administered postsecondary education expense plan possible, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to the purchasers at the lowest cost possible. Evaluations of proposals submitted pursuant to this paragraph shall include, but not be limited to, the following criteria:

1. Fees and other costs charged to purchasers that affect account values or operational costs related to the program.

2. Past and current investment performance, including investment and interest rate history, guaranteed minimum rates of interest, consistency of investment performance, and any terms and conditions under which moneys are held.

3. Past experience and ability to provide timely and accurate service in the areas of records administration, benefit payments, investment management, and complaint resolution.

4. Financial history and current financial strength and capital adequacy to provide products, including operating procedures and other methods of protecting program assets.

(7)(e) FLORIDA PREPAID COLLEGE BOARD; POWERS.—The board shall have the powers necessary or proper to carry out the provisions of this section, including, but not limited to, the power to:

(a)1. Adopt an official seal and rules.

(b)2. Sue and be sued.

(c)3. Make and execute contracts and other necessary instruments.

(d)4. Establish agreements or other transactions with federal, state, and local agencies, including state universities and community colleges.

(e)5. Invest funds not required for immediate disbursement.

(f)6. Appear in its own behalf before boards, commissions, or other governmental agencies.

(g)7. Hold, buy, and sell any instruments, obligations, securities, and property determined appropriate by the board.

(h)8. Require a reasonable length of state residence for qualified beneficiaries.

(i)9. Restrict the number of participants in the community college plan, university plan, and dormitory residence plan, respectively. However, any person denied participation solely on the basis of such restriction shall be granted priority for participation during the succeeding year.

(j)10. Segregate contributions and payments to the fund into various accounts and funds.

(k)11. Contract for necessary goods and services, employ necessary personnel, and engage the services of private consultants, actuaries, managers, legal counsel, and auditors for administrative or technical assistance.

(l)12. Solicit and accept gifts, grants, loans, and other aids from any source or participate in any other way in any government program to carry out the purposes of this section.

(m)13. Require and collect administrative fees and charges in connection with any transaction and impose reasonable penalties, including default, for delinquent payments or for entering into an advance payment contract on a fraudulent basis.

(n)14. Procure insurance against any loss in connection with the property, assets, and activities of the fund or the board.

(o)15. Impose reasonable time limits on use of the tuition benefits provided by the program. However, any such limitation shall be specified within the advance payment contract.

(p)16. Delineate the terms and conditions under which payments may be withdrawn from the fund and impose reasonable fees and charges for such withdrawal. Such terms and conditions shall be specified within the advance payment contract.

(q)17. Provide for the receipt of contributions in lump sums or installment payments.

~~18. Establish other policies, procedures, and criteria to implement and administer the provisions of this section.~~

(r)19. Require that purchasers of advance payment contracts verify, under oath, any requests for contract conversions, substitutions, transfers,

cancellations, refund requests, or contract changes of any nature. Verification shall be accomplished as authorized and provided for in s. 92.525(1)(a).

~~(d) The board shall administer the fund in a manner that is sufficiently actuarially sound to defray the obligations of the program. The board shall annually evaluate or cause to be evaluated the actuarial soundness of the fund. If the board perceives a need for additional assets in order to preserve actuarial soundness, the board may adjust the terms of subsequent advance payment contracts to ensure such soundness.~~

~~(e) The board, acting with the approval of the State Board of Administration, shall establish a comprehensive investment plan for the purposes of this section. The comprehensive investment plan shall specify the investment policies to be utilized by the board in its administration of the fund. The board may place assets of the fund in savings accounts or use the same to purchase fixed or variable life insurance or annuity contracts, securities, evidence of indebtedness, or other investment products pursuant to the comprehensive investment plan and in such proportions as may be designated or approved under that plan. Such insurance, annuity, savings, or investment products shall be underwritten and offered in compliance with the applicable federal and state laws, regulations, and rules by persons who are duly authorized by applicable federal and state authorities. Within the comprehensive investment plan, the board may authorize investment vehicles, or products incident thereto, as may be available or offered by qualified companies or persons. A contract purchaser may not direct the investment of his or her contribution to the trust fund, and a contract beneficiary may not direct the contribution made on his or her behalf to the trust fund. Board members and employees of the board are not prohibited from purchasing advance payment contracts by virtue of their fiduciary responsibilities as members of the board or official duties as employees of the board.~~

~~(s)(f) The board may Delegate responsibility for administration of the comprehensive investment plan required in paragraph (6)(c)(e) to a person the board determines to be qualified. Such person shall be compensated by the board. Directly or through such person, the board may contract with a private corporation or institution to provide such services as may be a part of the comprehensive investment plan or as may be deemed necessary or proper by the board or such person, including, but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, and asset purchase, control, and safekeeping.~~

(t) Endorse insurance coverage written exclusively for the purpose of protecting advance payment contracts, and the purchasers and beneficiaries thereof, which may be issued in the form of a group life policy and which is exempt from the provisions of part V of chapter 627.

(u) Solicit proposals and contract, pursuant to s. 287.057, for the services of a records administrator. The goals of the board in selecting a records administrator shall be to provide all purchasers with the most secure, well-diversified, and beneficially administered postsecondary education expense plan possible, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost

and to the purchasers at the lowest cost possible. Evaluations of proposals submitted pursuant to this paragraph shall include, but not be limited to, the following criteria:

1. Fees and other costs charged to purchasers that affect account values or operational costs related to the program.

2. Past experience in records administration and current ability to provide timely and accurate service in the areas of records administration, audit and reconciliation, plan communication, participant service, and complaint resolution.

3. Sufficient staff and computer capability for the scope and level of service expected by the board.

4. Financial history and current financial strength and capital adequacy to provide administrative services required by the board.

(v) Establish other policies, procedures, and criteria to implement and administer the provisions of this section.

~~(g) The board shall annually prepare or cause to be prepared a report setting forth in appropriate detail an accounting of the fund and a description of the financial condition of the program at the close of each fiscal year. Such report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and members of the State Board of Education on or before March 31 each year. In addition, the board shall make the report available to purchasers of advance payment contracts. The board shall provide to the Board of Regents and the State Board of Community Colleges by March 31 each year complete advance payment contract sales information including projected postsecondary enrollments of qualified beneficiaries. The accounts of the fund shall be subject to annual audits by the Auditor General or his or her designee.~~

(8)(h) QUALIFIED STATE TUITION PROGRAM STATUS.—Notwithstanding any other provision of this section, the board may adopt rules necessary to enable the program to retain its status as a “qualified state tuition prepaid program” in order to maintain its tax exempt status or other similar status of the program, purchasers, and qualified beneficiaries under the Internal Revenue Code of 1986, as defined in s. 220.03(1). The board shall inform purchasers of changes to the tax or securities status of contracts purchased through the program.

~~(i) The board shall solicit proposals for the marketing of the Florida Prepaid Postsecondary Education Expense Program pursuant to s. 287.057. The entity designated pursuant to this paragraph shall serve as a centralized marketing agent for the program and shall be solely responsible for the marketing of the program. Any materials produced for the purpose of marketing the program shall be submitted to the board for review. No such materials shall be made available to the public before the materials are approved by the board. Any educational institution may distribute marketing materials produced for the program; however, all such materials shall have been approved by the board prior to distribution. Neither the state nor~~

the board shall be liable for misrepresentation of the program by a marketing agent.

~~(j) The board may establish a direct support organization which is:~~

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

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

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

~~4. Subject to an annual postaudit by an independent certified public accountant in accordance with rules promulgated by the board. The annual audit shall be submitted to the State Board of Administration and the Auditor General for review. The State Board of Administration and Auditor General shall have the authority to require and receive from the organization or its independent auditor any detail or supplemental data relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and such anonymity shall be maintained in the auditor's report. Information received by the organization that is otherwise confidential or exempt by law shall retain such status. Any sensitive, personal information regarding contract beneficiaries, including their identities, is exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.~~

~~The chair of the board and the executive director shall be directors of the direct support organization and shall jointly name three other individuals to serve as directors of the organization.~~

~~(k) The board may endorse insurance coverage written exclusively for the purpose of protecting advance payment contracts, and the purchasers or beneficiaries thereof, which may be issued in the form of a group life policy and which is exempt from the provisions of part V of chapter 627.~~

(9) PREPAID COLLEGE PLANS.—At a minimum, the board shall make advance payment contracts available for two independent plans to be known as the community college plan and the university plan. The board may also make advance payment contracts available for a dormitory residence plan.

(a)1. Through the community college plan, the advance payment contract shall provide prepaid registration fees for a specified number of undergraduate semester credit hours not to exceed the average number of hours required for the conference of an associate degree. The cost of participation in the community college plan shall be based primarily on the average current and projected registration fees within the State Community College System and the number of years expected to elapse between the purchase of the plan

on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. Qualified beneficiaries shall bear the cost of any laboratory fees associated with enrollment in specific courses. Each qualified beneficiary shall be classified as a resident for tuition purposes, pursuant to s. 240.1201, regardless of his or her actual legal residence.

2. Effective July 1, 1998, the board may provide advance payment contracts for additional fees delineated in s. 240.35, not to exceed the average number of hours required for the conference of an associate degree, in conjunction with advance payment contracts for registration fees. The cost of purchasing such fees shall be based primarily on the average current and projected fees within the State Community College System and the number of years expected to elapse between the purchase of the plan on behalf of the beneficiary and the exercise of benefits provided in the plan by such beneficiary. Community college plan contracts purchased prior to July 1, 1998, shall be limited to the payment of registration fees as defined in subsection (2).

(b)1. Through the university plan, the advance payment contract shall provide prepaid registration fees for a specified number of undergraduate semester credit hours not to exceed the average number of hours required for the conference of a baccalaureate degree. The cost of participation in the university plan shall be based primarily on the current and projected registration fees within the State University System and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. Qualified beneficiaries shall bear the cost of any laboratory fees associated with enrollment in specific courses. Each qualified beneficiary shall be classified as a resident for tuition purposes pursuant to s. 240.1201, regardless of his or her actual legal residence.

2. Effective July 1, 1998, the board may provide advance payment contracts for additional fees delineated in s. 240.235(1), for a specified number of undergraduate semester credit hours not to exceed the average number of hours required for the conference of a baccalaureate degree, in conjunction with advance payment contracts for registration fees. Such contracts shall provide prepaid coverage for the sum of such fees, to a maximum of 45 percent of the cost of registration fees. The costs of purchasing such fees shall be based primarily on the average current and projected cost of these fees within the State University System and the number of years expected to elapse between the purchase of the plan on behalf of the qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. University plan contracts purchased prior to July 1, 1998, shall be limited to the payment of registration fees as defined in subsection (2).

(c) Through the dormitory residence plan, the advance payment contract may provide prepaid housing fees for a maximum of 10 semesters of full-time undergraduate enrollment in a state university. Dormitory residence plans shall be purchased in increments of 2 semesters. The cost of participation in the dormitory residence plan shall be based primarily on the average current and projected housing fees within the State University System and the number of years expected to elapse between the purchase of the plan on

behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. Qualified beneficiaries shall have the highest priority in the assignment of housing within university residence halls. Qualified beneficiaries shall bear the cost of any additional elective charges such as laundry service or long-distance telephone service. Each state university may specify the residence halls or other university-held residences eligible for inclusion in the plan. In addition, any state university may request immediate termination of a dormitory residence contract based on a violation or multiple violations of rules of the residence hall or other university-held residences. In the event that sufficient housing is not available for all qualified beneficiaries, the board shall refund the purchaser or qualified beneficiary an amount equal to the fees charged for dormitory residence during that semester. If a qualified beneficiary fails to be admitted to a state university or chooses to attend a community college that operates one or more dormitories or residency opportunities, or has one or more dormitories or residency opportunities operated by the community college direct-support organization, the qualified beneficiary may transfer or cause to have transferred to the community college, or community college direct-support organization, the fees associated with dormitory residence. Dormitory fees transferred to the community college or community college direct-support organization may not exceed the maximum fees charged for state university dormitory residence for the purposes of this section, or the fees charged for community college or community college direct-support organization dormitories or residency opportunities, whichever is less.

(10) TRANSFER OF BENEFITS TO PRIVATE AND OUT-OF-STATE COLLEGES AND UNIVERSITIES.—

(a) A qualified beneficiary may apply a community college plan, university plan, or dormitory residence plan toward any eligible independent college or university. An independent college or university which is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Commission of the Association of Independent Colleges and Schools, and which confers degrees as defined in s. 246.021, shall be eligible for such application. The board shall transfer, or cause to have transferred, to the eligible independent college or university designated by the qualified beneficiary an amount not to exceed the redemption value of the advance payment contract within a state postsecondary institution. In the event that the cost of registration or housing fees at the independent college or university is less than the corresponding fees at a state postsecondary institution, the amount transferred shall not exceed the actual cost of registration or housing fees. No transfer authorized pursuant to this paragraph shall exceed the number of semester credit hours or semesters of dormitory residence contracted on behalf of a qualified beneficiary.

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

payment contract or the original purchase price plus 5 percent compounded interest, whichever is less, after assessment of a reasonable transfer fee. In the event that the cost of registration or housing fees charged the qualified beneficiary at the eligible out-of-state college or university is less than this calculated amount, the amount transferred shall not exceed the actual cost of registration or housing fees. Any remaining amount shall be transferred in subsequent semesters until the transfer value is depleted. No transfer authorized pursuant to this paragraph shall exceed the number of semester credit hours or semesters of dormitory residence contracted on behalf of a qualified beneficiary.

~~(11)(6)(a)~~ ADVANCE PAYMENT CONTRACTS; CONTENTS.—The board shall construct advance payment contracts for registration and may construct advance payment contracts for dormitory residence as provided in accordance with the provisions of this section. Advance payment contracts constructed for the purposes of this section shall be exempt from ~~the provisions of chapter 517 and the Florida Insurance Code.~~ The board may request assistance from the Department of Legal Affairs in the development of the advance payment contracts. ~~The contents of both~~ Such contracts shall include, but not be limited to, the following:

~~(a)1.~~ The amount of the payment or payments and the number of payments required from a purchaser on behalf of a qualified beneficiary.

~~(b)2.~~ The terms and conditions under which purchasers shall remit payments, including, but not limited to, the date or dates upon which each payment shall be due.

~~(c)3.~~ Provisions for late payment charges and for default.

~~(d)4.~~ Provisions for penalty fees for withdrawals from the fund.

~~(e)5.~~ Except for an advance payment contract entered into pursuant to subsection (22) paragraph (5)(j), the name and date of birth of the qualified beneficiary on whose behalf the contract is drawn and the terms and conditions under which another person may be substituted as the qualified beneficiary.

~~(f)6.~~ The name of any person who may terminate the contract. The terms of the contract shall specify whether the contract may be terminated by the purchaser, the qualified beneficiary, a specific designated person, or any combination of these persons.

~~(g)7.~~ The terms and conditions under which a contract may be terminated, modified, or converted, the name of the person entitled to any refund due as a result of termination of the contract pursuant to such terms and conditions, and the amount of refund, if any, due to the person so named.

~~8.~~ The time limitations, if any, within which the qualified beneficiary must claim his or her benefits through the program.

~~9.~~ Other terms and conditions deemed by the board to be necessary or proper.

~~(b) In addition to the provisions of paragraph (a), an advance payment contract for registration shall include, but not be limited to, the following:~~

~~(h)1. The number of semester credit hours or semesters of dormitory residence contracted by the purchaser.~~

~~(i)2. The state postsecondary system toward which the contracted credit hours or semesters of dormitory residence will be applied.~~

~~(j)3. The assumption of a contractual obligation by the board to the qualified beneficiary to provide for a specified number of semester credit hours of undergraduate instruction at a state postsecondary institution, not to exceed the average number of credit hours required for the conference of the degree that corresponds to the plan purchased on behalf of the qualified beneficiary or to provide for a specified number of semesters of dormitory residence, not to exceed the number of semesters of full-time enrollment required for the conference of a baccalaureate degree.~~

~~(k) Other terms and conditions deemed by the board to be necessary or proper.~~

~~(c) In addition to the provisions of paragraph (a), an advance payment contract for dormitory residence shall include, but not be limited to, the following:~~

~~1. The number of semesters of dormitory residence contracted by the purchaser.~~

~~2. The assumption of a contractual obligation by the board to the qualified beneficiary to provide for a specified number of semesters of dormitory residence at a state university, not to exceed the maximum number of semesters of full-time enrollment required for the conference of a baccalaureate degree.~~

(12)(d) DURATION OF BENEFITS; ADVANCE PAYMENT CONTRACT.—An advance payment contract may provide that contracts which have not been terminated or the benefits exercised within a specified period of time shall be considered terminated. Time expended by a qualified beneficiary as an active duty member of any of the armed services of the United States shall be added to the period of time specified pursuant to this subsection paragraph. No purchaser or qualified beneficiary whose advance payment contract is terminated pursuant to this subsection paragraph shall be entitled to a refund. The board shall retain any moneys paid by the purchaser for an advance payment contract that has been terminated in accordance with this subsection paragraph. Such moneys retained by the board are exempt from chapter 717, and such retained moneys must be used by the board to further the purposes of this section.

(13) REFUNDS.—

~~(a)(e)1. Except as provided in paragraphs (b) and (c), no refund provided pursuant to subparagraph (a)7. shall exceed the amount paid into the fund by the purchaser. In the event that an advance payment contract is converted from a university to a community college registration plan, the refund~~

amount shall be reduced by the amount transferred to a community college on behalf of the qualified beneficiary. However, refunds may exceed the amount paid into the fund in the following circumstances:

(b)a. If the beneficiary is awarded a scholarship, the terms of which cover the benefits included in the advance payment contracts, moneys paid for the purchase of the advance payment contracts shall be returned to the purchaser in semester installments coinciding with the matriculation by the beneficiary in amounts of either the original purchase price plus 5 percent compounded interest, or the current rates at state postsecondary institutions, whichever is less.

(c)b. In the event of the death or total disability of the beneficiary, moneys paid for the purchase of advance payment contracts shall be returned to the purchaser together with 5 percent compounded interest, or the current rates at state postsecondary institutions, whichever is less.

(d)e. If an advance payment contract is converted from one registration plan to a plan of lesser value ~~a university plan to a community college plan or a community college plus university plan, or is converted from a community college plus university plan to a community college plan~~, the amount refunded shall not exceed the difference between the amount paid for the original contract and the amount that would have been paid for the contract to which the plan is converted had the converted plan been purchased under the same payment plan at the time the original advance payment contract was executed.

(e)2. No refund shall be authorized through an advance payment contract for any school year partially attended but not completed. For purposes of this section, a school year partially attended but not completed shall mean any one semester whereby the student is still enrolled at the conclusion of the official drop-add period, but withdraws before the end of such semester. If a beneficiary does not complete a community college plan or university plan for reasons other than specified in paragraph (c) subparagraph 1, ~~the purchaser shall receive a refund of the amount paid into the fund for the remaining unattended years of the advance payment contract pursuant to rules promulgated by the board.~~

(14)(f) CONFIDENTIALITY OF ACCOUNT INFORMATION.—Information that identifies the purchasers or beneficiaries of any plan promulgated under this section and their advance payment account activities is exempt from the provisions of s. 119.07(1). However, the board may authorize the program's records administrator to release such information to a community college, college, or university in which a beneficiary may enroll or is enrolled. Community colleges, colleges, and universities shall maintain such information as exempt from the provisions of s. 119.07(1).

(7) ~~At a minimum, the board shall make advance payment contracts available for two independent plans to be known as the community college plan and the university plan. The board may also make advance payment contracts available for a dormitory residence plan.~~

~~(a) Through the community college plan, the advance payment contract shall provide prepaid registration fees for a specified number of undergraduate semester credit hours not to exceed the average number of hours required for the conference of an associate degree. The cost of participation in the community college plan shall be based primarily on the average current and projected registration fees within the State Community College System and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. Qualified beneficiaries shall bear the cost of any laboratory fees associated with enrollment in specific courses. Each qualified beneficiary shall be classified as a resident for tuition purposes pursuant to s. 240.1201 regardless of his or her actual legal residence.~~

~~(b) Through the university plan, the advance payment contract shall provide prepaid registration fees for a specified number of undergraduate semester credit hours not to exceed the average number of hours required for the conference of a baccalaureate degree. The cost of participation in the university plan shall be based primarily on the current and projected registration fees within the State University System and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. Qualified beneficiaries shall bear the cost of any laboratory fees associated with enrollment in specific courses. In the event that a qualified beneficiary fails to be admitted to a state university or chooses to attend a community college, the qualified beneficiary may convert the average number of semester credit hours required for the conference of an associate degree from a university plan to a community college plan and may retain the remaining semester credit hours in the university plan or may request a refund for prepaid credit hours in excess of the average number of semester credit hours required for the conference of an associate degree pursuant to subparagraph (6)(a)7. Each qualified beneficiary shall be classified as a resident for tuition purposes pursuant to s. 240.1201 regardless of his or her actual legal residence.~~

~~(c) Through the dormitory residence plan, the advance payment contract may provide prepaid housing fees for a maximum of 10 semesters of full-time undergraduate enrollment in a state university. Dormitory residence plans shall be purchased in increments of 2 semesters. The cost of participation in the dormitory residence plan shall be based primarily on the average current and projected housing fees within the State University System and the number of years expected to elapse between the purchase of the plan on behalf of a qualified beneficiary and the exercise of the benefits provided in the plan by such beneficiary. Qualified beneficiaries shall bear the cost of any additional elective charges such as laundry service or long-distance telephone service. Each state university may specify the residence halls or other university-held residences eligible for inclusion in the plan. In addition, any state university may request immediate termination of a dormitory residence contract based on a violation or multiple violations of rules of the residence hall or other university-held residences. Qualified beneficiaries shall have the highest priority in the assignment of housing within university residence halls. In the event that sufficient housing is not available for all qualified beneficiaries, the board shall refund the purchaser or qualified~~

~~beneficiary an amount equal to the fees charged for dormitory residence during that semester. If a qualified beneficiary fails to be admitted to a state university or chooses to attend a community college that operates one or more dormitories or residency opportunities, or has one or more dormitories or residency opportunities operated by the community college direct-support organization, the qualified beneficiary may transfer or cause to have transferred to the community college, or community college direct-support organization, the fees associated with dormitory residence. Dormitory fees transferred to the community college or community college direct-support organization may not exceed the maximum fees charged for state university dormitory residence for the purposes of this section, or the fees charged for community college or community college direct-support organization dormitories or residency opportunities, whichever is less.~~

~~(d) A qualified beneficiary may apply a community college plan, university plan, or dormitory residence plan toward any eligible independent college or university. An independent college or university which is located and chartered in Florida, is not for profit, is accredited by the Commission on Colleges of the Southern Association of Colleges and Schools or the Accrediting Commission of the Association of Independent Colleges and Schools, and which confers degrees as defined in s. 246.021 shall be eligible for such application. The board shall transfer or cause to have transferred to the eligible independent college or university designated by the qualified beneficiary an amount not to exceed the redemption value of the advance payment contract within a state postsecondary institution. In the event that the cost of registration or housing fees at the independent college or university is less than the corresponding fees at a state postsecondary institution, the amount transferred shall not exceed the actual cost of registration or housing fees. No transfer authorized pursuant to this paragraph shall exceed the number of semester credit hours or semesters of dormitory residence contracted on behalf of a qualified beneficiary.~~

~~(e) A qualified beneficiary may apply the benefits of an advance payment contract toward an eligible out-of-state college or university. An out-of-state college or university which is not for profit, is accredited by a regional accrediting association, and which confers baccalaureate degrees shall be eligible for such application. The board shall transfer, or cause to have transferred, an amount not to exceed the redemption value of the advance payment contract or the original purchase price plus 5 percent compounded interest, whichever is less, after assessment of a reasonable transfer fee. In the event that the cost of registration or housing fees charged the qualified beneficiary at the eligible out-of-state college or university is less than this calculated amount, the amount transferred shall not exceed the actual cost of registration or housing fees. Any remaining amount shall be transferred in subsequent semesters until the transfer value is depleted. No transfer authorized pursuant to this paragraph shall exceed the number of semester credit hours or semesters of dormitory residence contracted on behalf of a qualified beneficiary.~~

~~(8) The board shall solicit proposals for the operation of the Florida Pre-paid Postsecondary Education Expense Program pursuant to s. 287.057,~~

through which the board shall contract for the services of a records administrator, a trustee services firm, and one or more product providers.

(a) ~~The records administrator shall be the entity designated by the board to conduct the daily operations of the program on behalf of the board. The goals of the board in selecting a records administrator shall be to provide all purchasers with the most secure, well-diversified, and beneficially administered postsecondary education expense plan possible, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to the purchasers at the lowest cost possible. Evaluations of proposals submitted pursuant to this paragraph shall include, but not be limited to, the following criteria:~~

1. ~~Fees and other costs charged to purchasers that affect account values or operational costs related to the program.~~

2. ~~Past experience in records administration and current ability to provide timely and accurate service in the areas of records administration, audit and reconciliation, plan communication, participant service, and complaint resolution.~~

3. ~~Sufficient staff and computer capability for the scope and level of service expected by the board.~~

4. ~~Financial history and current financial strength and capital adequacy to provide administrative services required by the board.~~

(b) ~~The trustee services firm shall be the entity designated by the board to select and supervise investment programs on behalf of the board. The goals of the board in selecting a trustee services firm shall be to obtain the highest standards of professional trustee services, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to the purchasers at the lowest cost possible. The trustee services firm shall agree to meet the obligations of the board to qualified beneficiaries if moneys in the fund fail to offset the obligations of the board as a result of imprudent selection or supervision of investment programs by such firm. Evaluations of proposals submitted pursuant to this paragraph shall include, but not be limited to, the following criteria:~~

1. ~~Adequacy of trustee services for supervision and management of the program, including current operations and staff organization and commitment of management to the proposal.~~

2. ~~Capability to execute program responsibilities within time and regulatory constraints.~~

3. ~~Past experience in trustee services and current ability to maintain regular and continuous interactions with the board, records administrator, and product provider.~~

4. ~~The minimum purchaser participation assumed within the proposal and any additional requirements of purchasers.~~

~~5.—Adequacy of technical assistance and services proposed for staff.~~

~~6.—Adequacy of a management system for evaluating and improving over-all trustee services to the program.~~

~~7.—Adequacy of facilities, equipment, and electronic data processing services.~~

~~8.—Detailed projections of administrative costs, including the amount and type of insurance coverage, and detailed projections of total costs.~~

~~(c)1.—The product providers shall be the entities designated by the board to develop investment portfolios on behalf of the board to achieve the purposes of this section. Product providers shall be limited to authorized insurers as defined in s. 624.09, banks as defined in s. 658.12, associations as defined in s. 665.012, authorized Securities and Exchange Commission investment advisers, and investment companies as defined in the Investment Company Act of 1940. All product providers shall have their principal place of business and corporate charter located and registered in the United States. In addition, each product provider shall agree to meet the obligations of the board to qualified beneficiaries if moneys in the fund fail to offset the obligations of the board as a result of imprudent investing by such provider. Each authorized insurer shall evidence superior performance overall on an acceptable level of surety in meeting its obligations to its policyholders and other contractual obligations. Only qualified public depositories approved by the State Insurance Commissioner and Treasurer shall be eligible for board consideration. Each investment company shall provide investment plans as specified within the request for proposals.~~

~~2.—The goals of the board in selecting a product provider company shall be to provide all purchasers with the most secure, well-diversified, and beneficially administered postsecondary education expense plan possible, to allow all qualified firms interested in providing such services equal consideration, and to provide such services to the state at no cost and to the purchasers at the lowest cost possible. Evaluations of proposals submitted pursuant to this paragraph shall include, but not be limited to, the following criteria:~~

~~a.—Fees and other costs charged to purchasers that affect account values or operational costs related to the program.~~

~~b.—Past and current investment performance, including investment and interest rate history, guaranteed minimum rates of interest, consistency of investment performance, and any terms and conditions under which moneys are held.~~

~~c.—Past experience and ability to provide timely and accurate service in the areas of records administration, benefit payments, investment management, and complaint resolution.~~

~~d.—Financial history and current financial strength and capital adequacy to provide products, including operating procedures and other methods of protecting program assets.~~

(15)(9) OBLIGATIONS OF BOARD; PAYMENT.—The state shall agree to meet the obligations of the board to qualified beneficiaries if moneys in the fund fail to offset the obligations of the board. The Legislature shall appropriate to the Florida Prepaid College Postsecondary Education Expense Trust Fund the amount necessary to meet the obligations of the board to qualified beneficiaries.

(16)(40) ASSETS OF THE FUND; EXPENDITURE PRIORITY.—The assets of the fund shall be maintained, invested, and expended solely for the purposes of this section and shall not be loaned, transferred, or otherwise used by the state for any purpose other than the purposes of this section. This subsection shall not be construed to prohibit the board from investing in, by purchase or otherwise, bonds, notes, or other obligations of the state or an agency or instrumentality of the state. Unless otherwise specified by the board, assets of the fund shall be expended in the following order of priority:

- (a) To make payments to state postsecondary institutions on behalf of qualified beneficiaries.
- (b) To make refunds upon termination of advance payment contracts.
- (c) To pay the costs of program administration and operations.

(17)(44) EXEMPTION FROM CLAIMS OF CREDITORS.—Moneys paid into or out of the fund by or on behalf of a purchaser or qualified beneficiary of an advance payment contract made under this section, which contract has not been terminated, are exempt, as provided by s. 222.22, from all claims of creditors of the purchaser or the beneficiary. Neither moneys paid into the program nor benefits accrued through the program may be pledged for the purpose of securing a loan.

(18)(42) PAYROLL DEDUCTION AUTHORITY.—The state or any state agency, county, municipality, or other political subdivision may, by contract or collective bargaining agreement, agree with any employee to remit payments toward advance payment contracts through payroll deductions made by the appropriate officer or officers of the state, state agency, county, municipality, or political subdivision. Such payments shall be held and administered in accordance with this section.

(19)(43) DISCLAIMER.—Nothing in this section shall be construed as a promise or guarantee that a qualified beneficiary will be admitted to a state postsecondary institution or to a particular state postsecondary institution, will be allowed to continue enrollment at a state postsecondary institution after admission, or will be graduated from a state postsecondary institution.

(20)(44) PROGRAM TERMINATION.—In the event that the state determines the program to be financially infeasible, the state may discontinue the provision of the program. Any qualified beneficiary who has been accepted by and is enrolled or is within 5 years of enrollment in an eligible independent college or university or state postsecondary institution shall be entitled to exercise the complete benefits for which he or she has contracted. All other contract holders shall receive a refund, ~~pursuant to subparagraph (6)(a)7,~~

of the amount paid in and an additional amount in the nature of interest at a rate that corresponds, at a minimum, to the prevailing interest rates for savings accounts provided by banks and savings and loan associations.

(21) ANNUAL REPORT.—The board shall annually prepare or cause to be prepared a report setting forth in appropriate detail an accounting of the fund and a description of the financial condition of the program at the close of each fiscal year. Such report shall be submitted to the President of the Senate, the Speaker of the House of Representatives, and members of the State Board of Education on or before March 31 each year. In addition, the board shall make the report available to purchasers of advance payment contracts. The board shall provide to the Board of Regents and the State Board of Community Colleges, by March 31 each year, complete advance payment contract sales information, including projected postsecondary enrollments of qualified beneficiaries. The accounts of the fund shall be subject to annual audits by the Auditor General or his or her designee.

(22) DIRECT-SUPPORT ORGANIZATION; AUTHORITY.—

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

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

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

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

4. Subject to an annual postaudit by an independent certified public accountant in accordance with rules promulgated by the board. The annual audit shall be submitted to the State Board of Administration and the Auditor General for review. The State Board of Administration and Auditor General shall have the authority to require and receive from the organization or its independent auditor any detail or supplemental data relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, and such anonymity shall be maintained in the auditor's report. Information received by the organization that is otherwise confidential or exempt by law shall retain such status. Any sensitive, personal information regarding contract beneficiaries, including their identities, is exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

Section 50. Section 222.22, Florida Statutes, is amended to read:

222.22 Exemption of moneys in the Prepaid Postsecondary Education Expense Trust Fund from legal process.—Moneys paid into or out of the Florida Prepaid College Postsecondary Education Expense Trust Fund by or on behalf of a purchaser or qualified beneficiary pursuant to an advance payment contract made under s. 240.551, which contract has not been terminated, are not liable to attachment, garnishment, or legal process in the state in favor of any creditor of the purchaser or beneficiary of such advance payment contract.

Section 51. Subsection (2) of section 732.402, Florida Statutes, is amended to read:

732.402 Exempt property.—

(2) Exempt property shall consist of:

(a) Household furniture, furnishings, and appliances in the decedent's usual place of abode up to a net value of \$10,000 as of the date of death; ~~and~~

(b) All automobiles held in the decedent's name and regularly used by the decedent or members of the decedent's immediate family as their personal automobiles.

(c) Florida Prepaid College Program contracts purchased pursuant to s. 240.551.

Section 52. For the purpose of incorporating the amendment to s. 732.402, Florida Statutes, in references thereto, subsection (13) of section 731.201 and subsection (1) of section 735.301, Florida Statutes, are reenacted to read:

731.201 General definitions.—Subject to additional definitions in subsequent chapters that are applicable to specific chapters or parts, and unless the context otherwise requires, in this code and chapters 737, 738, and 744:

(13) "Exempt property" means the property of a decedent's estate which is described in s. 732.402.

735.301 Disposition without administration.—

(1) No administration shall be required or formal proceedings instituted upon the estate of a decedent leaving only personal property exempt under the provisions of s. 732.402, personal property exempt from the claims of creditors under the Constitution of Florida, and nonexempt personal property the value of which does not exceed the sum of the amount of preferred funeral expenses and reasonable and necessary medical and hospital expenses of the last 60 days of the last illness.

Section 53. Effective January 1, 1999, section 240.207, Florida Statutes, is amended to read:

240.207 Board of Regents; appointment of members; qualifications and terms of office.—

(1) The Board of Regents shall consist of the Commissioner of Education and ~~13~~ 12 citizens of this state who shall be selected from the state at large, representative of the geographical areas of the state; who shall have been residents and citizens thereof for a period of at least 10 years prior to their appointment (one of whom shall be a member registered as a full-time student in the State University System and who shall have been a resident of this state for at least 5 years prior to appointment in lieu of the 10 years required of other members); and who shall be appointed by the Governor, approved by three members of the Cabinet, and confirmed by the Senate. However, no appointee shall take office until after his or her appointment has been approved by three members of the Cabinet. The State Board of Education shall develop rules and procedures for review and approval of the appointees. Except for the Commissioner of Education and except for the full-time student member, who shall serve for 1 year, the terms of office for the members of the Board of Regents appointed after the effective date of this act shall be 4 ~~6~~ years and until their successors are appointed and qualified, except in case of an appointment to fill a vacancy, in which case the appointment shall be for the unexpired term, and except as in this section otherwise provided. No member shall be selected from any county to serve with any other member from the same county, except that not more than two members may be selected from a county which has a population in excess of 900,000, and with the exceptions of the student member, who shall be selected at large, and the Commissioner of Education. The Governor shall fill all vacancies, subject to the above approval and confirmation, that may at any time occur on the board.

(2) Members may be removed for cause at any time upon the concurrence of a majority of the members of the State Board of Education.

~~(3) To create an orderly succession of Regents and the appointment of two Regents each year, one additional Regent shall be appointed in 1991 to serve a 6-year term, and one additional Regent shall be appointed in 1992 to serve a 6-year term. For the four seats with terms ending in 1993, the Governor shall make one appointment for a 3-year term and two appointments for regular 6-year terms. For 1 year, from January 1992 to January 1993, there shall be a total of 15 Regents. All the members of the Board of Regents serving on May 3, 1991, shall complete their regular terms, as prescribed by the Secretary of State.~~

Section 54. Subsections (2) and paragraphs (b) and (e) of subsection (3) of section 240.209, Florida Statutes, are amended to read:

240.209 Board of Regents; powers and duties.—

(2) The Board of Regents shall appoint a Chancellor to serve at its pleasure who shall perform such duties as are assigned to him or her by the board. The board shall fix the compensation and other conditions of employment for the Chancellor. The board shall also provide for the compensation and other conditions of employment for employees necessary to assist the board and the Chancellor in the performance of their duties. The Chancellor shall be the chief administrative officer of the board and shall be responsible for appointing all employees of the board who shall serve under his or her

direction and control. The Chancellor ~~must~~ shall be ~~a person~~ qualified by training and experience to understand the problems and needs of the state in the field of postsecondary education. Search committee activities for the selection of the Chancellor up to the point of transmitting a list of nominees to the Board of Regents shall be confidential and exempt from the provisions of ss. 119.07(1) and 286.011.

(3) The board shall:

(b) Appoint or remove the president of each university in accordance with procedures and rules adopted by the Board of Regents. The board may appoint a search committee to assist in evaluating presidential candidates. Each appointment of a university president shall be conducted in accordance with the provisions of ss. 119.07 and 286.011. The board shall determine the compensation and other conditions of employment for each president. ~~The board shall not provide a tenured faculty appointment to any president who is removed through termination by the board or resignation tendered at the request of the board.~~

(e) Establish student fees.

1. By no later than December 1 of each year, the board shall raise the systemwide standard for resident undergraduate matriculation and financial aid fees for the subsequent fall term, up to but no more than 25 percent of the prior year's cost of undergraduate programs. In implementing this paragraph, fees charged for graduate, medical, veterinary, and dental programs may be increased by the Board of Regents in the same percentage as the increase in fees for resident undergraduates. However, in the absence of legislative action to the contrary in an appropriations act, the board may not approve annual fee increases for resident students in excess of 10 percent. The sum of nonresident student matriculation and tuition fees must be sufficient to defray the full cost of undergraduate education. Graduate, medical, veterinary, and dental fees charged to nonresidents may be increased by the board in the same percentage as the increase in fees for nonresident undergraduates. However, in implementing this policy and in the absence of legislative action to the contrary in an appropriations act, annual fee increases for nonresident students may not exceed 25 percent. In the absence of legislative action to the contrary in the General Appropriations Act, the fees shall go into effect for the following fall term.

2. When the appropriations act requires a new fee schedule, the board shall establish a systemwide standard fee schedule required to produce the total fee revenue established in the appropriations act based on the product of the assigned enrollment and the fee schedule. The board may approve the expenditure of any fee revenues resulting from the product of the fee schedule adopted pursuant to this section and the assigned enrollment.

3. Upon provision of authority in a General Appropriations Act to spend revenue raised pursuant to this section, the board shall approve a university request to implement a matriculation and out-of-state tuition fee schedule which is calculated to generate revenue which varies no more than 10 percent from the standard fee revenues authorized through an appropriations act. In implementing an alternative fee schedule, the increase in cost to a

student taking 15 hours in one term shall be limited to 5 percent. Matriculation and out-of-state tuition fee revenues generated as a result of this provision are to be expended for implementing a plan for achieving accountability goals adopted pursuant to s. 240.214(2) and for implementing a Board of Regents-approved plan to contain student costs by reducing the time necessary for graduation without reducing the quality of instruction. The plans shall be recommended by a universitywide committee, at least one-half of whom are students appointed by the student body president. A chairperson, appointed jointly by the university president and the student body president, shall vote only in the case of a tie.

4. The board is authorized to collect for financial aid purposes an amount not to exceed 5 percent of the student tuition and matriculation fee per credit hour. 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. The board shall specify specific limits on the percent of the fees collected in a fiscal year which may be carried forward unexpended to the following fiscal year. A minimum of 50 percent of funds from the student financial aid fee shall be used to provide financial aid based on absolute need. A student who has received an award prior to July 1, 1984, shall have his or her eligibility assessed on the same criteria that was used at the time of his or her original award.

5. The board may recommend to the Legislature an appropriate system-wide standard matriculation and tuition fee schedule.

6. The Education and General Student and Other Fees Trust Fund is hereby created, to be administered by the Department of Education. Funds shall be credited to the trust fund from student fee collections and other miscellaneous fees and receipts. The purpose of the trust fund is to support the instruction and research missions of the State University System. Notwithstanding the provisions of s. 216.301, and pursuant to s. 216.351, any balance in the trust fund at the end of any fiscal year shall remain in the trust fund and shall be available for carrying out the purposes of the trust fund.

Section 55. Section 240.136, Florida Statutes, is created to read:

240.136 Suspension and removal from office of elected student government officials; referendum.—Each state university and community college student government association shall establish a process within 60 days of this act becoming a law to provide for the removal from office of any elected student government official who has been convicted of a violation of criminal law or has been found civilly liable for an act of moral turpitude, after all available rights of judicial appeal have been exercised or waived or have expired. The process shall include a procedure for the immediate suspension of the student government official from elected office following the conviction or civil finding and during any appeal, and shall provide for the temporary successor to the subject office pending completion of any appeal. The process must also include a procedure for registered students to petition for a referendum recommending to the student government association the removal of a student official from elected office. The referendum must be held within

60 days of filing of the petition. The recommendation to remove the subject official from elected office shall be made by majority vote of the students participating in the referendum. The action of a student government association under this section shall be subject to an appeal to the university or community college president or designee.

Section 56. Except as otherwise provided in this act, this act shall take effect July 1, 1998.

Became a law without the Governor's approval June 17, 1998.

Filed in Office Secretary of State June 16, 1998.