

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

**BILL:** CS for CS/SB 1924

**SPONSOR:** Governmental Oversight and Productivity Committee, Education Committee, and Senator Grant

**SUBJECT:** State University System

**DATE:** April 12, 1999                      **REVISED:** \_\_\_\_\_

|    | ANALYST      | STAFF DIRECTOR   | REFERENCE | ACTION              |
|----|--------------|------------------|-----------|---------------------|
| 1. | <u>Rhea</u>  | <u>Wilson</u>    | <u>GO</u> | <u>Favorable/CS</u> |
| 2. | <u>White</u> | <u>O'Farrell</u> | <u>ED</u> | <u>Favorable/CS</u> |
| 3. | _____        | _____            | <u>FP</u> | _____               |
| 4. | _____        | _____            | _____     | _____               |
| 5. | _____        | _____            | _____     | _____               |

## I. Summary:

The committee substitute for the committee substitute:

- ▶ Requires fee waivers for employees of state agencies and the State University System to be negotiated through collective bargaining and funded as provided in the annual Appropriations Act.
- ▶ Requires the Board of Regents to approve naming a school, college, or center for a living person.
- ▶ Authorizes participation in the optional retirement program for all employees of the State University System who are classified as Administrative and Professional.
- ▶ Makes retroactive to May 5, 1997, postsecondary education fee exemptions for adopted children.
- ▶ Authorizes a state university to use up to 25 percent of the funds in the Concurrency Trust Fund to update the campus master plan, but no more than once every 5 years.
- ▶ Amends the governance of the Trust Fund for Major Gifts. Authorizes the Board of Regents to set restrictions on the annual amount of funds that will be provided from the fund to match any single donation of more than \$2 million.
- ▶ Modifies requirements for issuance of bonds by a university's direct-support organization.
- ▶ Defines the term "continuing contract" to increase a university president's contracting authority under the Consultants' Competitive Negotiation Act. A president may contract for \$1 million in construction and for \$100,000 for studies, compared to the current limits of \$500,000 and \$25,000.
- ▶ Requires an appeals process for applicants to a university who are denied admission because of high school grades.
- ▶ Authorizes an alternative to the procedures in s. 215.322, F.S., to state universities that wish to absorb the costs of accepting credit cards and debit cards. Authorizes them to contract with financial institutions to cover the costs through a compensating balance placed on deposit.
- ▶ Adds to the membership of the Council of Student Financial Aid Advisors.

- ▶ Increases eligibility for the Florida Student Assistance Grant and the Florida Postsecondary Student Assistance Grant for 150 percent of the total number of credit hours required to complete a degree-level program at a public institution.
- ▶ Modifies requirements for financing agreements for direct-support organizations and the Florida Institute of Phosphate Research.
- ▶ Authorizes institutions for higher education to take out loans and to issue bonds based on loans in anticipation of tuition revenues.
- ▶ Requires the Board of Regents to conduct a program administration process rather than a program review process for the expenditure of funds received from the Brain and Spinal Cord Injury Rehabilitation Trust Fund by the University of Miami and the University of Florida. Deletes authority to expend \$10,000 on the process.
- ▶ Provides that a person is not required to register as an engineer “for the sole purpose of teaching the principles and methods of engineering design.”
- ▶ Repeals the Women’s Athletics Trust Fund.

This committee substitute for the committee substitute amends the following sections of the Florida Statutes: 110.1099, 121.35, 239.117, 240.156, 240.2605, 240.235, 240.233, 240.35, 240.2093, 240.227, 240.289, 240.299, 240.409, 240.4097, 240.421, 243.19, 243.20, 243.22, 378.101, and 413.613.

This committee substitute for the committee substitute repeals section 240.5335, Florida Statutes, and creates a new section of law, as yet undesignated.

The bill’s effective date is upon becoming a law.

## II. Present Situation:

**Fee Waivers for State Employees and SUS Employees** - The 1998 Legislature provided that fee waivers for employees of state agencies were “fundable.” Until then, under s. 110.1099, F.S., and s. 240.209, F.S., state employees and university employees could enroll in work-related university courses free, if space was available. No state funding was provided for the waivers.

**Naming Protocol** - According to s. 267.062, F.S., no state building, complex, or facility may be named after a living person unless specifically provided by law. No restrictions are placed on naming of less tangible entities, such as schools, colleges, centers, and institutes.

**Optional Retirement Program** - Chapter 121, F.S., creates the Florida Retirement System. Section 121.35, F.S., requires the Division of Retirement to establish an Optional Retirement Program under which contracts providing retirement and death benefits may be purchased for eligible members of the State University System. The benefits are provided through individual contracts or individual certificates issued for group annuity contracts. These contracts may be fixed, variable, or a combination of the two.<sup>1</sup> Under the section, the state is required to contribute toward the purchase of these optional benefits.

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<sup>1</sup>Section 403(b) of the Internal Revenue Code.

Eligibility to participate in the program is limited to persons who are:

- ▶ otherwise eligible for membership in the Florida Retirement System;
- ▶ employed or appointed for no less than one academic year; and
- ▶ employed in specified positions in the State University System.<sup>2</sup>

Under s. 121.35(2)(a)2., F.S., one of the groups eligible for participation in the Optional Retirement Program is comprised of personnel classified as administrative and professional who are exempt from the career service under s. 110.205(2)(d), F.S. To be eligible, an employee must be in a position that is included in the State University System Executive Service, or else the Division of Retirement must determine eligibility according to the following criteria:

- ▶ The duties and responsibilities of the position must include either the formulation, interpretation, or implementation of academic policies, or the performance of functions that are unique or specialized within higher education and which frequently involve the support of the academic mission of the university; and
- ▶ Recruiting to fill vacancies in the positions must be conducted in the national or regional market. The employer is required to submit an application, including a certification that the position meets the criteria for eligibility, to the division for each administrative and professional position not in the Executive Service for which it seeks eligibility for the Optional Retirement Program.

According to the Division of Retirement, as of June 30, 1998, a total of 9,427 of the approximately 15,240 eligible employees were participating in the program (including faculty and administrative and personnel positions). Staff of the Board of Regents report that 30% of the advanced and professional pay plan, or 1,318 employees, are in positions that currently require a petition to participate in the program. Examples of classes included in this category include: Coordinator, Equal Opportunity Programs; Specialist, Financial Planning; and Inspector General. Board of Regents staff report that 67 positions have been deemed eligible based on the statutory criteria, and 1,251 positions are potentially eligible.

Currently, a state university or the Board of Regents must contribute on behalf of each participant in the Optional Retirement Program an amount equal to the normal cost portion of the employer retirement contribution that would be required if the participant were a regular member of the Florida Retirement System, plus the portion of the contribution rate required in s. 112.363(8), F.S., that would otherwise be assigned to the Retiree Health Insurance Subsidy Trust Fund, less an amount approved by the Legislature which must be deducted by the Division of Retirement to provide for administration of the program. The employer must also contribute on behalf of each participant in the program an amount equal to the unfunded actuarial accrued liability portion of the employer contribution that would be required for members of the Florida Retirement System. Contributions required for social security by each employer and each participant must be

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<sup>2</sup>The specified positions are: (1) positions classified as instructional and research faculty which are exempt from the career service under s. 110.205(2)(d), F.S.; (2) positions classified as administrative and professional which are exempt from the career service under s. 110.205(2)(d), F.S., provided that only those positions that are included in the SUS Executive Service, or those which the division determines meet the following criteria, are eligible to participate; and (3) the Chancellor and the university presidents.

maintained for each participant in the program and are in addition to the retirement contribution specified in s. 121.35(4), F.S.

**Postsecondary Student Fees** - Sections 239.117, 240.35, and 240.235, F.S., include provisions for exempting students from fees at a public postsecondary education institution. All three sections provide an exemption from all required fees for a student who was adopted from the Department of Children and Family Services after December 31, 1997. The exemption is broader for adopted children and foster-care children than for most others, in that these students are exempt from fees for non-credit preparatory courses as well as for college-credit courses. Since the 1997 Legislature authorized the fee exemptions, the question arises of why that Legislature did not start the authority on the effective date of the bill. About 430 children were adopted between the close of the Legislative Session in 1997 and December 31, 1997.

**Concurrency Trust Fund** -Section 240.156, F.S., provides a trust fund for universities that are required to provide offsite improvements needed to meet concurrency standards adopted under part II of chapter 163, the County and Municipal Planning and Land Development Regulation. Every 5 years or more often, universities must develop campus master plan updates, including planning for development that will require offsite improvements under concurrency requirements. The Legislature does not appropriate funds directly to pay for this planning process, and universities are reluctant to use funds in the concurrency trust fund without specific legislative authority.

**Trust Fund for Major Gifts** - Section 240.2605, F.S., provides a trust fund that the Board of Regents uses for donations to be matched as provided by the Legislature. The bigger the donation, the higher the state match, up to a 100 percent match for donations of over \$2 million. In recent years, the Legislative appropriations have not kept pace with private donations, and large donations tend to deplete the funds available for universities that have not benefitted from donations as high as \$2 million.

The statute also requires the Board of Regents and a university to encumber state funds they expect to receive as a match for major gifts. When the gifts are pledged at once but are actually handed over some period of time, the fact that all the matching funds are encumbered is an obstacle. Other universities may not have a chance at state matching funds although they have their gifts of smaller amounts in hand before the encumbering larger gifts have been completely collected.

**Admissions Requirements for State Universities** - In making admissions decisions for first-time-in-college freshmen, state universities require at least a “B” average (3.0 grade point average) in 19 courses identified by the Board of Regents as “required academic units.” These courses are listed in rule 6C-6.002, F.A.C., as English, Math, Natural Science, and Foreign Language. Fifteen are required and four are electives, but all the electives must be in the academic categories listed above. Fine arts courses are not included in the calculation.

To be admitted with less than a 3.0 grade point average, a student must present a higher score on a scholastic achievement test or be admitted under an alternative provision. The alternative admission is for students who “may bring to a university other important attributes or special

talents.” Staff of the Board of Regents say that talent in performing arts frequently justifies an alternative admission.

**State University System Direct-Support Organizations** - Section 240.299, F.S., authorizes the formation of state university direct-support organizations. These organizations are exclusively to:

- ▶ Receive, hold, invest, and administer property and
- ▶ Make expenditures to or for the benefit of a state university or for the benefit of a research and development park or research and development authority affiliated with a state university.

Each must be reviewed by the Board of Regents and certified to be operating according to the goals of the university and in the best interest of the state. The Board of Regents may permit the use of property, facilities, and personal services at any state university by any university direct-support organization. An annual postaudit of the financial accounts is required. Section 240.128, F.S., prohibits a university or its direct-support organization from accepting or purchasing facilities if the state will be asked for operating funds, unless the Legislature has granted its approval before the acquisition. Section 240.2093, F.S., prohibits the Board of Regents from allowing a direct-support organization to issue bonds unless the project to be funded has been approved by the Legislature. The law does not provide an exception for projects that will not later require the Legislature to provide operational funds.

Representatives of the universities and the Board of Regents report that the provision requiring legislative approval limits the ability of direct-support organizations to transact business such as buying and financing facilities. Only once a year -- right after the legislative session and upon legislative approval -- may they initiate a project. The universities advise that this limitation diminishes the organizations' ability to carry out their assigned functions because they cannot take advantage of opportunities that arise during the course of the year.

**State University Contracting** - Section 243.151, F.S., authorizes a university to negotiate, and, upon approval of the Board of Regents, to enter into agreements to lease land to allow for-profit and nonprofit corporations to erect facilities and accommodations to serve the university. Universities are also authorized to enter into agreements with those corporations to allow the acquisition of income-producing building, improvements, and facilities. Both the Board of Regents and the Legislature must approve income-producing projects. Agreements must result from publicly announced competitive bids or proposals, except that the university may enter into an agreement with a direct-support organization, which must then enter into subsequent agreements for financing and constructing the project after receiving competitive bids or proposals. The facility must conform to construction standards and codes applicable to university facilities.

Section 240.227(12), F.S., requires universities to comply with s. 287.055, F.S., the “Consultants’ Competitive Negotiations Act” for the procurement of professional services and authorizes the university presidents to approve and execute all contracts for planning, construction, and equipment for projects with building programs and construction budgets approved by the Board of Regents. The Consultants’ Competitive Negotiations Act governs the acquisition of professional, architectural, engineering, landscape architectural, and surveying and mapping services.

Current law sets the thresholds for a “continuing contract” for all agencies at \$500,000 for construction and at \$25,000 for study activities. Section 240.227, F.S., also sets a limit of \$500,000 on contracts a university president may negotiate without permission of the Board of Regents or the Legislature.

**Credit and Debit Card Payments at State Universities** - Section 240.289, F.S., permits state universities to accept credit cards, charge cards, or debit cards as payment for goods, service, tuition, and fees. Agreements with credit card companies must comply with s. 215.322, F.S., and rules established by the Board of Regents.

Section 215.322, F.S., encourages the acceptance of credit cards, charge cards, or debit cards by state agencies, units of local government, and the judicial branch. The stated purpose of the section is to make services more convenient to the public and to reduce the administrative costs of government. A state agency may accept credit cards, charge cards, or debit cards in payment for goods and services upon the recommendation of the Office of Planning and Budgeting and with prior approval of the Treasurer.

The Treasurer may establish contracts with financial institutions to process card collections. Any state agency which accepts payment by these methods must use one of these contractors unless the agency obtains authorization from the Treasurer to use another contractor more advantageous to the agency.

The Treasurer must adopt rules governing the establishment and acceptance of credit cards, charge cards, or debit cards by state agencies. The rules must require a standard contract between the financial institution and the agency. A substitute agreement may be used if approved by the Treasurer.

The Treasurer’s rules governing the acceptance of credit cards by state agencies are found in Chapter 4C-4, F.A.C. The rules establish procedures for the following functions:

- ▶ Providing a process for state agencies to request approval for credit card, charge card, and debit card acceptance;
- ▶ Adopting a standard contract to be used between the service provider and the agency;
- ▶ Permitting an agency accepting payment by credit card to impose a convenience fee upon the person making the payment; and
- ▶ Requiring annual reports.

The following rules apply to convenience fees:

- ▶ Convenience fees may not be imposed if prohibited by state law or card company regulations;
- ▶ Convenience fees are to assist the consumer, such as by eliminating a need to make a payment in person; and
- ▶ Convenience fees should be assigned to payment methods such as telephone, automatic response units, or other non-standard payment processing methods.

Earlier rules have been repealed. Those rules required state agencies to collect a service fee to pay the credit card company’s surcharge if credit cards are used to pay fees that are established in statute -- such as taxes, tuition, and license fees.

The state universities have requested additional authority to accept credit cards and debit cards for the payment of tuition and fees and to absorb the surcharge. According to staff of the Board of Regents, the University of Florida is the only one that allows credit cards for tuition. Community colleges are not defined as state agencies and routinely allow the use of credit cards for tuition.

**Florida Student Assistance Grant Program** - sections 240.409, 240.4095, and 240.4097, F.S., provide governance for the state's largest need-based financial aid programs. These statutes provide for assistance to students in public postsecondary education institutions (s. 240.409, F.S.); nonpublic, degree-granting, regionally accredited colleges (s. 240.4095, F.S.); and students in nonpublic postsecondary education institutions that are licensed by the State Board of Independent Colleges and Universities or are exempt from licensure because of accreditation by a national accrediting association (not SACS), plus private nursing schools (s. 240.4097, F.S.). Recipients are eligible for nine semesters or the equivalent. Federal grants and loans are available for 150 percent of the length of the program.

**Florida Council of Student Financial Aid Advisors** - Section 240.421, F.S., creates a council of 14 experts to advise the State Board of Education, the Legislature, the Board of Regents, the State Board of Community Colleges, and the Postsecondary Education Planning Commission on matters related to student financial aid. Since the 1998 Legislature's initiatives to de-centralize the financial aid process, the council has considerable policy flexibility. Officials of the affected policy boards suggest that they should have a voting membership on the council.

**Florida Institute of Phosphate Research** - Section 378.101(1), F.S., creates the Florida Institute of Phosphate Research. The institute is authorized to administer the Phosphate Research Trust Fund and may develop research or work products that are subject to trademark, copyright, or patent protection. Proceeds from these work products are deposited in the Phosphate Research Trust Fund. The fund is subject to the service charge required by ch. 215, F.S.

**Counties Higher Education Facilities Authorities Law** - Sections 243.18 - 243.40, F.S., govern conditions under which counties may establish education facilities authorities. These authorities may be established to meet the need for educational facilities or projects at the institutions for higher education within the county. The laws establish conditions under which educational facilities projects may be operated, including the issuance of bonds. The definition of a project in s. 243.20, F.S., includes the operation of an institution for higher education as well as a structure, and the word "project" occurs 36 times in the related laws.

Nonpublic institutions for higher education have used the anticipation of tuition income to back up loans and bond issues to fund construction projects, but they have been denied loans based on tuition income to pay operational costs. Public institutions may not use the anticipation of tuition income for loans because the Legislature appropriates tuition income.

Only once has a public university constructed a project using an education facilities authority. In that instance, the Florida International University refinanced a dormitory project. Private firms have used such authorities in the financing of construction of housing designed to benefit students at public institutions, such as the Southgate complex in Tallahassee for students attending Florida State University, Tallahassee Community College, and Florida A & M University.

**Brain and Spinal Cord Injury Rehabilitation Trust Fund** - Section 413.613, F.S., establishes the Brain and Spinal Cord Injury Rehabilitation Trust Fund. Subsection (3) of this section provides for distribution of not more than \$500,000 annually to the University of Florida and the University of Miami to conduct spinal cord and brain injury research. Subsection (4) requires the Board of Regents to establish a program review process including a prospective program plan, research design, proposed outcomes, an annual report of research activities and findings. Prospective program plans are submitted to the Board of Regents and funds are released upon acceptance of the proposed program plans. The Board of Regents is authorized to spend up to \$10,000 of state funds for the program review.

The Board of Regents reports difficulty in finding external consultants to conduct the program review required by the Brain and Spinal Cord Injury Rehabilitation Program. The area of research is highly specialized and many of the consultants who could perform the required program review have previously worked with the institutions, currently work with them, or plan to work with them in the future.

The Board of Regents recommends substituting an administration process for the review process and eliminating the funding.

**Engineering** - Section 471.003, F.S., prohibits any person other than a duly registered engineer from practicing engineering. Subsection (6) of s. 471.005, F.S., defines the term “engineering” to include “teaching of the principles and methods of engineering design.”

Universities report that the requirement that engineering faculty be registered engineers contributes to hiring difficulties. In addition, some courses that include some principles of engineering design are taught as early as the freshman year. The Board of Professional Engineers indicates that people who teach at this level are not normally registered.

**Women’s Athletics Trust Fund** - Section 240.5335, F.S., provides for the Women’s Athletics Trust Fund. The purpose of the trust fund is to enhance women’s athletics within the State University Trust Fund by increasing private financial support. The section required university foundations to solicit and receive gifts from private sources to provide matching funds to the trust fund challenge grants. The act requires each university foundation to establish a Women’s Athletics Trust Fund as a depository for private contributions and state matching funds. The foundation has the responsibility for the maintenance and investment of its trust fund and for the administration of the program and that university. According to the Board of Regents, the Legislature did not fund the trust fund and the trust fund was eliminated. Provisions for the program, however, remain in statute.

### III. Effect of Proposed Changes:

**Section 1** - Amends s. 110.1099, F.S., to provide that state employees may receive waivers to enroll in up to 6 credit hours of free university courses as provided in an appropriations act and the negotiated collective bargaining agreements between the Governor and the agency bargaining units.

**Section 2** - Expands eligibility to participate in the State University System Optional Retirement Program. Specifically, the bill eliminates the eligibility requirement that positions must be classified as Executive Service or be determined to carry policy-level or highly specialized higher-education responsibilities that require national or regional recruitment.

If the entire Advanced and Professional Pay Plan gains eligibility, staff of the Board of Regents say that a one-time election would be held to give these employees the option of participating in the Optional Retirement Program or remaining in the Florida Retirement System. The staff estimate is that between 58% and 65% of the employees in these positions would make the change. These figures are based on cumulative employee election statistics since July 1, 1984, when the optional program began.

**Sections 3 (239.117, F.S.), 6 (s. 240.235), and 7 (240.35, F.S.).** These sections change the date on which adopted children qualify for an exemption from fees from December 31, 1997 to May 5, 1997. The Department of Children and Families report that about 430 children were adopted between those dates. Those children will be exempt from all public postsecondary education fees for 4 years after their graduation from high school. Because they are of various ages, the fiscal impact of including them will be spread out over some years.

**Section 4.** Amends s. 240.156, F.S. Authorizes a state university to use up to 25 percent of the funds in the Concurrency Trust Fund to update the campus master plan, but no more than once every 5 years.

**Section 5** - Amends s. 240.209, to require fee waivers for university employees to be funded as provided in the appropriations act. Also requires the Board of Regents to approve the naming of a school, college, or center at a public university for a living person.

**Section 8.** Amends s. 240.2093(2), F.S., to require legislative approval for university direct-support organizations to issue bonds only when the Legislature will be asked for operating funds or funds to purchase the facility. Approval of bonds is subject to s. 243.151, F.S.<sup>3</sup> Legislative approval will probably continue to be the chosen route because projects that issue bonds without approval will be precluded from requesting operating funds in the future.

**Section 9.** Amends s. 240.227, F.S. (1998 Supp.) to define “continuing contract” for professional services under the Consultants’ Competitive Negotiations Act, s. 287.055, F.S., so that a

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<sup>3</sup>Section 243.151, F.S. (1998 Supp.) provides each university with the authority to negotiate and, upon approval of the Board of Regents, to enter into agreements to lease land to for-profit and nonprofit corporations for the purpose of erecting facilities and accommodations for the university, as determined by the strategic plan. The agreements may be for a term no longer than 99 years or the life expectancy of the facilities, whichever is shorter. Additionally, each university is authorized to enter into agreements with for-profit and nonprofit corporations whereby income-producing buildings, improvements, and facilities necessary and desirable to serve the needs and purposes of the university are acquired by purchase or lease-purchase by the university, upon approval of the Board of Regents and approval of the project by the Legislature. When the agreements provide for lease-purchase of facilities erected on land that is not under the jurisdiction of the university, the agreement must include provision for the eventual ownership of the land and facility by the state. Agreements for lease-purchase may not exceed 30 years or the life expectancy of the permanent facility constructed, whichever is shorter. Notwithstanding any other provision of law, the Board of Regents may enter into an agreement for the lease-purchase of a facility under this section for a term greater than 1 year when the term has been approved by the Legislature as part of the project.

university president may approve a contract without further authority if construction costs do not exceed \$1 million or the fee for study activity does not exceed \$100,000.

**Section 10.** Amends s. 240.233, F.S., to add a new subsection (8). A Florida resident who is denied admission as an undergraduate to a state university solely because of the high school grade point average may appeal the decision to the university and request a recalculation of the grades earned in up to three credits of advanced fine arts courses. The university must notify the student of the admissions decision. The university then will recalculate the student's grade point average using the additional courses and advise the student of any changes in the student's admission status.

The bill defines fine arts courses to include courses in music, drama, painting, sculpture, speech, debate, or a course in any art form that requires manual dexterity. Advanced level fine arts courses include fine arts courses identified in the course code directory as Advanced Placement, Pre-International Baccalaureate, or International Baccalaureate or fine arts courses taken in the third or fourth year of a fine arts curriculum.

**Section 11.** Amends s. 240.2605, F.S. to amend the governance of the Trust Fund for Major Gifts. Authorizes the Board of Regents to set restrictions on the annual amount of funds that will be provided from the fund to match any single donating of more than \$2 million. The use of the word "donating" instead of "donation" indicates a pledge carried out by several installments.

This section also deletes the authority of universities to encumber the state matching portion of a challenge grant and deletes a requirement that the Board of Regents must encumber state matching funds for any pledged contributions based on the requirements for a state match and on the amount of donations actually received.

**Section 12.** Amends s. 240.271, F.S., to require the credit hours generated under the fee waivers for employees of state agencies and the university system will be funded as provided in the General Appropriations Act.

**Section 13.** As an alternative to the provisions of s. 215.332, F.S., the committee substitute for the committee substitute amends s. 240.289, F.S., to permit state universities to accept credit cards and debit cards for the payment of tuition and fees without the imposition of a convenience fee for such card services.<sup>4</sup> The costs incurred by the universities may be absorbed by the universities as a cost of doing business. Universities may use any source of nonappropriated funds to cover the costs of accepting the cards.

The bill also permits universities to negotiate credit card contracts and debit card contracts with financial institutions whereby a compensating balance may be placed on deposit with the financial institutions to cover the costs of accepting credit cards and debit cards.

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<sup>4</sup>As noted *supra*, the provisions of s. 215.322, F.S., do not require an agency to assess a convenience fee. The rules of the Treasurer relating to acceptance of credit cards permit, but do not require, a state agency to assess a convenience fee.

The committee substitute permits acceptance of credit card or debit card payments at any location where compensation is received for goods, services, tuition, or fees, whether the payor makes payment in person or by electronic means.

**Section 14.** Amends s. 240.299(5), F.S., to provide that legislative approval for university direct-support organizations to enter into agreements to finance, design and construct, lease, lease-purchase, purchase, or operate facilities will be required only when the Legislature will be asked for operating funds or for funds to purchase the facility. If a project does not have prior Legislative authority for these agreements, no request for operational costs may be submitted in the future.

**Sections 15 & 16.** Amend ss. 240.409, and 240.4097, F.S., to authorize receipt of the Florida Student Assistance Grant and the Florida Postsecondary Student Assistance Grant for 150 percent of the total number of credit hours required to complete a degree-level program at a public institution. In some cases this change will represent an increase over the current restriction, which is 9 semesters. Students in 5-year programs will be eligible to receive the grant for at least 11 semesters.

These sections apply to students in public institutions and in nonpublic institutions whose students are not eligible for the Florida Resident Access Grant. The bill does not change the statute that applies to students enrolled in SACS-accredited private colleges, s. 240.4095, F.S.

**Section 17.** Amends s. 240.421, F.S., to add to the membership of the Council of Student Financial Aid Advisors. Three ex officio members are added: The Chancellor of the Board of Regents, the Executive Director of the Florida Community College System, and the Executive Director of the Independent Colleges and Universities of Florida. They may have designees.

**Section 18.** Amends s. 243.19, F.S., which provides the intent for Counties Higher Educational Facilities Authorities Law. The bill adds to the intent of the law that it is essential to provide additional assistance to higher educational institutions by enabling them to coordinate their budgetary needs with the timing of receipt of tuition revenues in a manner similar to programs authorized for school districts within the state. This section of the bill takes effect May 1, 1999.

**Section 19.** Amends s. 243.20, F.S., to include the term “loan in anticipation of tuition revenues” by an institution for higher education in the definition of “project.” Other sections in the *Counties Higher Educational Facilities Authorities Law* authorize the issuance of bonds and other forms of indebtedness for projects, and a project may include operational costs as well as costs for construction or equipment.

Public institutions will not be able to take out such loans because their tuition revenue is appropriated by the Legislature.

The committee substitute for the committee substitute also modifies the term “cost” so that in the case of a loan in anticipation of tuition revenues, the term “cost” means the amount of the loan that does not exceed the amount of tuition revenues anticipated to be received by the borrowing institutions for higher education in the 1-year period following the date of the loan, plus costs

related to the issuance of the loans, or bonds the proceeds of which fund the loans, and any related costs of associated debt service reserve funds.

The bill defines the phrase “loan in anticipation of tuition revenues” to mean:

a loan to an institution for higher education under circumstances in which tuition revenues anticipated to be received by the institution in any budget year are estimated to be insufficient at any time during the budget year to pay the operating expenses or other obligations of the institution in accordance with the budget of the institution. The loans are permitted within guidelines adopted by the authority consistent with the provisions for similar loans undertaken by school districts under s. 237.151, F.S., excluding provisions applicable to the limitations on borrowing relating to the levy of taxes and the adoption of budgets in accordance with law applicable solely to school districts.

**Section 20.** Amends s. 243.22, F.S., to include a loan in anticipation of tuition revenue, among enumerated authorized loans.

**Section 21.** Amends s. 378.101, F.S. to modify the current requirement that proceeds received by the Florida Institute of Phosphate Research for patents, copyrights, or trademarks be deposited in the Phosphate Research Trust Fund. The committee substitute requires those proceeds to be deposited in an established account of the not-for-profit foundation of the university with administrative responsibility for the institute. Further, the committee substitute for the committee substitute provides that the trust fund is not subject to the service charge imposed by ch. 215, F.S.

**Section 22.** Amends s. 413.613, F.S., which provides for the Brain and Spinal Cord Injury Rehabilitation Trust Fund. The committee substitute for the committee substitute requires Board of Regents to conduct a program administration process rather than a program review process of the expenditure of funds from the trust fund by the University of Florida and the University of Miami. It deletes the authority to spend \$10,000 on a program review. It adds to the requirements a proposed budget and an end-of-year financial statement.

**Section 23.** In a new, undesignated section of law, the committee substitute for the committee substitute states that a person is not required to register as an engineer “for the sole purpose of teaching the principles and methods of engineering design.” A person who teaches some engineering principles in other types of courses, such as computer programming, will not have to be a registered engineer.

**Section 24.** The committee substitute for the committee substitute repeals s. 240.5335, F.S., the Women’s Athletics Trust Fund program.

**Section 25.** The effective date is upon becoming a law.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

If personnel of the State University System who are not currently eligible for the SUS optional retirement program choose to participate when eligibility standards are modified, some investments companies may benefit. Financial institutions may also benefit from university deposits of compensating balances to offset their payment of credit card surcharges.

Nonpublic higher educational institutions will be authorized to take out loans in anticipation of tuition revenue and use the proceeds for operational costs or bond issues.

Approximately 430 children who were adopted from the Department of Children and Families between May 5, 1997 and December 31, 1997, will be eligible to attend public postsecondary education institutions without paying tuition or fees, for 4 years after their graduation from high school.

Students receiving certain state-funded need-based grants will be eligible to receive them for a longer period of time.

## C. Government Sector Impact:

According to the Division of Retirement, employer contribution costs will not change regardless of the employee's choice to participate in the optional retirement funds. Under the committee substitute for the committee substitute, an additional 1,251 persons will be eligible to participate; however, the division advises that it is unlikely that all of these employees will choose to participate. According to staff of the Board of Regents, between 58% - 65% of

eligible employees would elect to participate. The Florida Retirement System contribution for these employees is estimated to be in the range of \$2.2 - \$4 million.

Administrative costs currently incurred by state universities, the Board of Regents, and the Division of Retirement, when certifying the eligibility of positions to participate in the SUS Optional Retirement Program, should be eliminated.

Increasing the threshold that would be applicable to state universities for “continuing contracts” under the “Consultants’ Competitive Negotiation Act” should reduce the administrative costs associated with these activities because the universities would not be required to seek extra bids.

The fiscal impact of authorizing an alternative procedure for acceptance of credit cards by state universities has not been determined.

The Phosphate Research Trust Fund will no longer be subject to the service charge imposed by ch. 215, F.S.

By making students eligible to receive the need-based scholarships for a longer period of time, the total funds available will either need to be increased or the amount of the grant will be prorated so that each student receives a lesser amount of his or her documented need.

**VI. Technical Deficiencies:**

Perhaps it is an omission to make changes in student eligibility for grants in sections 240.409 and 240.4097, F.S., but not in s. 240.4095, F.S.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.