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1                   A bill to be entitled  
2           An act relating to the Prepaid Developmental Disabilities  
3           Savings Program; creating s. 393.507, F.S.; providing  
4           legislative findings and intent; providing definitions;  
5           creating the Prepaid Developmental Disabilities Savings  
6           Program; providing for administration and management of  
7           the savings program by the Florida Prepaid College Board  
8           in conjunction with the Stanley G. Tate Florida Prepaid  
9           College Program; providing for membership on the board for  
10          purposes of certain meetings; providing that the savings  
11          program shall be supported by the direct-support  
12          organization established by the Florida Prepaid College  
13          Board; providing requirements for administration of the  
14          savings program; requiring a prepaid contract plan to  
15          provide for advance payment for eligible services for a  
16          qualified beneficiary and an investment plan to provide  
17          for the investment of funds by a benefactor for a  
18          qualified beneficiary; providing requirements for contract  
19          pricing and redemption value; providing requirements that  
20          must be met prior to implementation of the savings  
21          program; requiring funds for the savings program to be  
22          deposited in a separate account in the Florida Prepaid  
23          College Trust Fund; providing that the prepaid contract  
24          fund and the investment fund shall consist of certain  
25          moneys; providing requirements for the use, investment,  
26          and maintenance of moneys in savings program accounts;  
27          requiring comprehensive asset allocation plans; requiring  
28          annual reports that provide an accounting of the prepaid

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 contract plan and the investment plan; requiring annual  
30 audits; providing for initial enrollment in the savings  
31 program; creating the Prepaid Services for Parents of  
32 Children with Developmental Disabilities Study Group;  
33 requiring the study group to make recommendations  
34 regarding the implementation of, and enrollment in, the  
35 savings program; providing membership of the study group;  
36 providing for abolishment of the study group; providing  
37 severability; providing an effective date.

38  
39 Be It Enacted by the Legislature of the State of Florida:

40  
41 Section 1. Section 393.507, Florida Statutes, is created  
42 to read:

43 393.507 Prepaid Developmental Disabilities Savings  
44 Program.—

45 (1) (a) The Legislature recognizes the opportunity to  
46 provide increased access to services, at the discretion of the  
47 family, for those families who have children with developmental  
48 disabilities. The years after a student with a developmental  
49 disability ages out of the education system are critical for  
50 learning and transition. The Legislature finds that the creation  
51 of a savings program for families with children who have  
52 developmental disabilities can offer accessibility to services,  
53 regardless of income, insurance, or Medicaid eligibility.

54 (b) It is the intent of the Legislature that a prepaid  
55 developmental disabilities savings program consisting of a  
56 prepaid contract plan and an investment plan be established

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57 through which many of the costs associated with children with  
58 developmental disabilities who age out of the education system  
59 may be paid or saved for in advance. It is the intent that the  
60 prepaid contract plan be interchangeable with an advance payment  
61 plan of the Stanley G. Tate Florida Prepaid College Program,  
62 thereby providing students with developmental disabilities the  
63 ability to receive the same value and contract pricing offered  
64 through the prepaid college program. It is further the intent  
65 that the investment plan be established as a supplement or an  
66 alternative to the prepaid contract plan to allow benefactors to  
67 place funds in a designated trust fund savings account from  
68 which future needs of the beneficiary can be met. Finally, it is  
69 the intent that a prepaid developmental disabilities savings  
70 program be conducted in a manner to maximize program efficiency  
71 and effectiveness.

72 (2) For the purposes of this section, the term:

73 (a) "Benefactor" means any person making a deposit,  
74 payment, contribution, gift, or other expenditure into the  
75 investment plan of a qualified beneficiary.

76 (b) "Board" means the Florida Prepaid College Board  
77 pursuant to s. 1009.971.

78 (c) "Developmental disability" means a disability defined  
79 in s. 393.063(9) or a severe, chronic disability that:

80 1. Is attributable to a mental or physical impairment or a  
81 combination of those impairments.

82 2. Occurs before the individual reaches 18 years of age.

83 3. Is likely to continue indefinitely.

84 4. Results in substantial functional limitations in three  
85 or more of the following areas of major life activity: self-  
86 care, receptive and expressive language, learning, mobility,  
87 self-direction, capacity for independent living, or economic  
88 self-sufficiency.

89 5. Reflects the individual's need for a combination and  
90 sequence of special, interdisciplinary, or generic services,  
91 individualized supports, or other forms of assistance that are  
92 of lifelong or extended duration and are individually planned  
93 and coordinated.

94 6. For a child younger than 10 years of age, is likely to  
95 meet the criteria in subparagraphs 1.-5. without intervention.

96 (d) "Eligible services" means:

97 1. Specific services that may include respite care,  
98 provision of rehabilitation and habilitation services, assistive  
99 technology, personal assistance services, counseling, support  
100 for families headed by aging caregivers, vehicular and home  
101 modifications, and assistance with extraordinary expenses  
102 associated with the needs of individuals with developmental  
103 disabilities.

104 2. Health-related services that may include medical,  
105 dental, mental health, and other human and social services to  
106 enhance the well-being of the individual, as well as durable and  
107 consumable medical supplies.

108 3. Housing-related services that may result in individuals  
109 with developmental disabilities having access to and use of  
110 housing and housing supports and services in their communities,

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111 including assistance related to renting, owning, or modifying an  
112 apartment or home.

113 4. Education-related services such as attendance in a  
114 training or educational setting, technology, and personnel-  
115 related services that assist in obtaining and maximizing the  
116 educational experience.

117 5. Employment-related services that are necessary to  
118 assist the individual in meeting essential job functions through  
119 technology, personnel-related expenses, and transportation  
120 expenses.

121 (e) "Internal Revenue Code" means the Internal Revenue  
122 Code of 1986, as defined in s. 220.03(1), and regulations  
123 adopted pursuant thereto.

124 (f) "Investment fund" means the fund within the Florida  
125 Prepaid College Trust Fund into which moneys belonging to the  
126 investment plan are deposited and held.

127 (g) "Investment plan" means the plan under the Prepaid  
128 Developmental Disabilities Savings Program that provides the  
129 opportunity for a benefactor, in a self-directed manner, to  
130 deposit funds on behalf of a qualified beneficiary into a  
131 nonguaranteed fund that is among the specific fund options  
132 provided by the Florida Prepaid College Board.

133 (h) "Prepaid college program" means the Stanley G. Tate  
134 Florida Prepaid College Program pursuant to s. 1009.98.

135 (i) "Prepaid contract fund" means the fund within the  
136 Florida Prepaid College Trust Fund into which moneys belonging  
137 to the prepaid contract plan are deposited and held.

138       (j) "Prepaid contract plan" means the advance payment plan  
 139 under the Prepaid Developmental Disabilities Savings Program  
 140 that provides the opportunity for a purchaser to enter into a  
 141 guaranteed value advance payment contract to provide for future  
 142 college enrollment and attendance or other eligible services for  
 143 a qualified beneficiary.

144       (k) "Purchaser" means a parent or grandparent who is a  
 145 resident of the state who makes or is obligated to make advance  
 146 payments for eligible services in accordance with a prepaid  
 147 contract plan for his or her child or grandchild or a  
 148 nonresident, noncustodial parent who makes or is obligated to  
 149 make advance payments for eligible services in accordance with a  
 150 prepaid contract plan for his or her child.

151       (l) "Qualified beneficiary" means a person with a  
 152 developmental disability who is a resident of the state and who  
 153 is under 22 years of age at the time a purchaser enters into an  
 154 advance payment contract or at the time a benefactor funds an  
 155 investment plan on his or her behalf.

156       (m) "Savings program" means the Prepaid Developmental  
 157 Disabilities Savings Program.

158       (n) "Trust fund" means the Florida Prepaid College Trust  
 159 Fund pursuant to s. 1009.972.

160       (3) (a) There is created the Prepaid Developmental  
 161 Disabilities Savings Program to be administered and managed in  
 162 conjunction with the Stanley G. Tate Florida Prepaid College  
 163 Program by the Florida Prepaid College Board. The director of  
 164 the Agency for Persons with Disabilities and one member  
 165 appointed by the Governor shall serve as members of the board

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166 for the sole purpose of meetings conducted for the  
167 implementation, management, and execution of the savings  
168 program.

169 (b) The board shall administer the savings program  
170 according to s. 1009.98, and the savings program shall be  
171 supported by the direct-support organization of the prepaid  
172 college program pursuant to s. 1009.983.

173 (c) The savings program shall provide a prepaid contract  
174 plan through which the costs of eligible services for  
175 individuals with developmental disabilities may be paid in  
176 advance and an investment plan through which a benefactor may  
177 deposit funds for future needs of an individual with  
178 developmental disabilities.

179 (d) The savings program shall provide education and  
180 training opportunities and any other eligible services for  
181 individuals with developmental disabilities to advance their  
182 goals and become contributing members of society.

183 (e) Advance payment contracts offered under the savings  
184 program shall inform the purchaser of the potential impact on  
185 eligibility for Medicaid or other state or federally funded  
186 programs.

187 (4) The board shall administer the savings program to  
188 promote and enhance the affordability of services for  
189 individuals with developmental disabilities and to enable  
190 persons to contribute funds that are combined and invested to  
191 pay the subsequent expenses for a designated beneficiary. Such  
192 contributions shall be combined and invested in a manner that  
193 yields, at a minimum, sufficient interest to generate the

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194 difference between the prepaid amount and the accrued amount at  
195 the time of actual disbursement, not to exceed the redemption  
196 value of the advance payment contract. The contract pricing and  
197 redemption value for the prepaid contract plan shall be equal or  
198 comparable to the pricing options and redemption values  
199 available under the prepaid college program. Individuals with  
200 developmental disabilities who attend college may use the  
201 benefits of the prepaid contract plan, which will provide value  
202 equal to that of a prepaid college program plan. Individuals  
203 with a prepaid college program plan may convert the plan to a  
204 prepaid contract plan under the savings program in the event the  
205 beneficiary meets eligibility requirements for the savings  
206 program.

207 (5) The board may not implement the savings program until  
208 it has obtained all of the following:

209 (a) A written opinion from a qualified member of the  
210 United States Patent Bar indicating that the implementation of  
211 the savings program or the operation of the savings program will  
212 not knowingly infringe upon any patent or copyright specifically  
213 related to the financing of expenses.

214 (b) A written opinion of qualified counsel specializing in  
215 federal securities law that the savings program and the offering  
216 of participation in the savings program does not violate federal  
217 securities law.

218 (c) A written opinion from the board's litigation counsel  
219 indicating that the implementation or operation of the savings  
220 program will not adversely impact any pending litigation against  
221 the board.



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222       (6) (a) Funds for the savings program shall be deposited in  
223 a separate account in the Florida Prepaid College Trust Fund  
224 and, within that account, the moneys shall be segregated into  
225 two separate funds, the prepaid contract fund and the investment  
226 fund.

227       (b) The prepaid contract fund shall consist of, but not be  
228 limited to, moneys acquired from governmental or private sources  
229 for the prepaid contract plan, moneys remitted in accordance  
230 with prepaid contract plans, or state appropriations. Dividends,  
231 interest, and gains accruing to the prepaid contract fund shall  
232 increase the total funds available for the prepaid contract  
233 plan. If dividends, interest, and gains for the prepaid contract  
234 fund exceed the amount necessary for program administration and  
235 disbursements, the board may designate an additional percentage  
236 of the prepaid contract fund to serve as a contingency fund.

237       (c) The investment fund shall consist of, but not be  
238 limited to, moneys acquired from governmental or private sources  
239 for the investment plan, moneys remitted in accordance with  
240 investment plans, or state appropriations. The amounts on  
241 deposit in the investment fund shall remain in the fund and  
242 shall be available solely for carrying out the purposes of the  
243 investment plan.

244       (d) Any balance in the prepaid contract fund or the  
245 investment fund at the end of a fiscal year shall remain in the  
246 respective fund and shall be available for carrying out the  
247 purposes of the fund and the direct-support organization. Moneys  
248 in the prepaid contract fund or the investment fund shall be  
249 exempt from the investment requirements pursuant to s. 17.57.

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250 All funds deposited in the prepaid contract fund may be invested  
251 pursuant to s. 215.47. Any funds of the direct-support  
252 organization shall be exempt from the provisions of this  
253 section.

254 (e) The assets of the prepaid contract fund and the  
255 investment fund shall be maintained, invested, and expended  
256 solely for the purposes of the prepaid contract plan and the  
257 investment plan, respectively, and shall not be loaned,  
258 transferred, or otherwise used by the state for any purpose  
259 other than the purposes of this section.

260 (f) All services purchased with funds from the prepaid  
261 contract fund or the investment fund shall be purchased from  
262 providers who have been certified, licensed, or otherwise  
263 approved by the state.

264 (7) A benefactor retains ownership of all amounts on  
265 deposit in his or her account with the savings program. Earnings  
266 derived from investment of the contributions shall be considered  
267 to be held in trust in the same manner as contributions, except  
268 as applied for purposes of the designated beneficiary and for  
269 purposes of maintaining and administering the savings program.

270 (8) All amounts attributable to penalties imposed by the  
271 board for, but not limited to, delinquent payments or entering  
272 into a contract under a fraudulent basis shall be used for  
273 purposes of the savings program or as required by the Internal  
274 Revenue Code, and amounts received other than contributions  
275 shall be property of the savings program. Proceeds from  
276 penalties shall remain with the savings program and may be used

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277 for any costs or purposes of the savings program or used as  
278 required by the Internal Revenue Code.

279 (9) The assets of the savings program shall be  
280 continuously invested and reinvested in a manner consistent with  
281 the purposes of the savings program, expended on expenses  
282 incurred by the operation and management of the savings program,  
283 or refunded to the purchaser under the conditions provided in  
284 the contract. The board is not required to invest directly in  
285 obligations of the state or any political subdivision of the  
286 state or in any investment or other fund administered by the  
287 state.

288 (10) The board shall establish separate comprehensive  
289 asset allocation plans for the prepaid contract fund and the  
290 investment fund, each subject to the approval of the State Board  
291 of Administration. Each comprehensive asset allocation plan  
292 shall specify the investment policies to be utilized by the  
293 board in its administration of each respective fund. The board  
294 may place assets of each fund in investment products pursuant to  
295 the comprehensive asset allocation plan for each respective fund  
296 and in such proportions as may be designated or approved under  
297 the savings program. Such products shall be underwritten and  
298 offered in compliance with the applicable federal and state  
299 laws, regulations, and rules by persons authorized by applicable  
300 federal and state authorities. A purchaser may not direct the  
301 investment of his or her contribution to the prepaid contract  
302 plan. A benefactor or designated beneficiary may not direct the  
303 investment of any contributions to the investment plan other  
304 than to the specific fund options provided by the board, if any.

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305 Board members and employees of the board are not prohibited from  
306 participating in the savings program by virtue of their  
307 fiduciary responsibilities as members of the board or official  
308 duties as employees of the board.

309 (11) On or before March 31 of each year, the board shall  
310 prepare or cause to be prepared separate reports setting forth  
311 in appropriate detail an accounting of the prepaid contract plan  
312 and the investment plan that includes a description of the  
313 financial condition of each respective plan at the close of the  
314 fiscal year. The board shall submit copies of the reports to the  
315 Governor, the President of the Senate, the Speaker of the House  
316 of Representatives, and the minority leaders of the Senate and  
317 the House of Representatives and shall make the report for the  
318 prepaid contract plan available to each purchaser and designated  
319 beneficiary and the report for the investment plan available to  
320 each benefactor and designated beneficiary. The accounts of the  
321 funds for the prepaid contract plan and the investment plan  
322 shall be subject to annual audits by the Auditor General.

323 (12) Nothing in the savings program shall be construed as  
324 a promise or guarantee that a qualified beneficiary or a  
325 designated beneficiary will become Medicaid eligible, receive  
326 permanent services, be enrolled in the Medicaid waiver program,  
327 or receive any other state or federal assistance.

328 (13) Initial enrollment in the savings program shall begin  
329 no later than July 1, 2011.

330 Section 2. (1) The Prepaid Services for Parents of  
331 Children with Developmental Disabilities Study Group is created  
332 to make recommendations to the Florida Prepaid College Board,

333 pursuant to s. 1009.971, Florida Statutes, regarding the  
 334 implementation of, and enrollment in, the Prepaid Developmental  
 335 Disabilities Savings Program created under s. 393.507, Florida  
 336 Statutes.

337 (2) The study group shall consist of the following:

338 (a) A member of the House of Representatives appointed by  
 339 the Speaker of the House of Representatives.

340 (b) A member of the Senate appointed by the President of  
 341 the Senate.

342 (c) The director of the Agency for Persons with  
 343 Disabilities or his or her designee.

344 (d) The director of the Division of Vocational  
 345 Rehabilitation or his or her designee.

346 (e) The executive director of the State Board of  
 347 Administration or his or her designee.

348 (f) The Commissioner of Education or his or her designee.

349 (g) The executive director of The Arc of Florida or his or  
 350 her designee.

351 (h) An Arc of Florida family board member appointed by the  
 352 executive director of The Arc of Florida.

353 (i) The chair of the Family Care Council Florida or his or  
 354 her designee.

355 (j) A parent representative from the Family Care Council  
 356 Florida appointed by the chair of the Family Care Council  
 357 Florida.

358 (3) (a) The Agency for Persons with Disabilities shall  
 359 provide administrative support to the study group.

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360        (b) Members of the study group shall serve without  
361 compensation but are entitled to reimbursement for per diem and  
362 travel expenses as provided in s. 112.061, Florida Statutes.

363        (4) The study group shall continue until enrollment in the  
364 Prepaid Developmental Disabilities Savings Program has  
365 commenced, at which time the study group is abolished.

366        Section 3. If any provision of this act or the application  
367 thereof to any person or circumstance is held invalid, the  
368 invalidity shall not affect other provisions or applications of  
369 the act which can be given effect without the invalid provision  
370 or application, and to this end the provisions of this act are  
371 declared severable.

372        Section 4. This act shall take effect July 1, 2010.