
By: Delegates Mossburg and Hurson

Introduced and read first time: January 26, 1996

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Prepaid Higher Education Expense Program**

3 FOR the purpose of establishing a Prepaid Higher Education Expense Program;
4 establishing a Prepaid Higher Education Expense Board; specifying certain
5 findings; specifying the membership, appointment, terms, and operational
6 requirements of the Board; specifying the powers and duties of the Board;
7 establishing a Prepaid Higher Education Expense Trust Fund; specifying
8 requirements for the administration and use of the Fund; requiring the Board to
9 adopt a comprehensive investment plan; allowing the Board to establish a certain
10 organization to receive, hold, invest, and administer property and to make
11 expenditures for certain purposes; providing that certain books, records, and
12 accounts are subject to audit by the Legislative Auditor; requiring the establishment
13 of certain advance payment contracts; specifying that the cost of an advance
14 payment contract be based on certain criteria; specifying and authorizing certain
15 requirements concerning advance payment contracts; providing that neither this Act
16 nor an advance payment contract assures certain guarantees; specifying certain
17 requirements concerning contract refunds; providing exclusions from certain laws;
18 limiting disclosure of certain information; prohibiting the seizure of certain benefits
19 or assets of the Fund; requiring certain reports; requiring the State to meet certain
20 obligations; requiring the Governor to include certain appropriations in the State
21 budget; specifying certain requirements if the Program is discontinued; requiring
22 the Board to seek certain rulings; defining certain terms; and generally relating to
23 the establishment and operation of a Prepaid Higher Education Expense Program.

24 BY repealing and reenacting, with amendments,
25 Article - Education
26 Section 11-105(h)(1)
27 Annotated Code of Maryland
28 (1992 Replacement Volume and 1995 Supplement)

29 BY adding to
30 Article - Education
31 Section 18-2101 through 18-2116, inclusive, to be under the new subtitle "Subtitle
32 21. Prepaid Higher Education Expense Program"
33 Annotated Code of Maryland

2

1 (1992 Replacement Volume and 1995 Supplement)

2 BY adding to

3 Article - State Government

4 Section 10-616(m)

5 Annotated Code of Maryland

6 (1993 Replacement Volume and 1995 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
8 MARYLAND, That the Laws of Maryland read as follows:

9 **Article - Education**

10 11-105.

11 (h) (1) On or before a date set by the Commission, each of the following
12 governing boards and agencies shall submit to the Commission its annual operating
13 budget requests and proposals for capital projects, by constituent institutions for the next
14 fiscal year:

15 (i) The Board of Regents of the University of Maryland System;

16 (ii) The Board of Regents of Morgan State University;

17 (iii) The Board of Trustees of St. Mary's College of Maryland;

18 (iv) The Maryland Higher Education Loan Corporation;

19 (v) The State Advisory Council for Title I of the Higher Education Act
20 of 1965; [and]

21 (vi) The Board of Trustees of Baltimore City Community College; AND

22 (VII) THE PREPAID HIGHER EDUCATION EXPENSE BOARD.

23 SUBTITLE 21. PREPAID HIGHER EDUCATION EXPENSE PROGRAM.

24

25 18-2101.

26 THE GENERAL ASSEMBLY FINDS THAT:

27 (1) EDUCATIONAL OPPORTUNITY AT THE POSTSECONDARY LEVEL IS A
28 CRITICAL STATE INTEREST;

29 (2) EDUCATIONAL OPPORTUNITY OFTEN IS BEST ENSURED THROUGH
30 THE STATE'S PUBLIC INSTITUTIONS OF HIGHER EDUCATION THAT ARE
31 GEOGRAPHICALLY AND FINANCIALLY ACCESSIBLE;

32 (3) THE COST OF POSTSECONDARY EDUCATION HAS ESCALATED AND
33 CONSTITUTES A SUBSTANTIAL BARRIER FOR MANY FAMILIES SEEKING TO FINANCE
34 POSTSECONDARY EDUCATION; AND

3

1 (4) IT IS IN THE STATE'S INTEREST TO ASSIST FAMILIES IN PLANNING
2 FOR POSTSECONDARY EDUCATION TO MEET BOTH THE INDIVIDUAL'S AND THE
3 STATE'S FUTURE NEEDS.

4 18-2102.

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (B) "ADVANCE PAYMENT CONTRACT" MEANS A CONTRACT ENTERED INTO
8 BETWEEN THE BOARD AND A PURCHASER.

9 (C) "BOARD" MEANS THE PREPAID HIGHER EDUCATION EXPENSE BOARD.

10 (D) "ELIGIBLE INSTITUTION" MEANS:

11 (1) A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION; OR

12 (2) A COMMUNITY COLLEGE.

13 (E) "FUND" MEANS THE PREPAID HIGHER EDUCATION EXPENSE TRUST
14 FUND.

15 (F) "PROGRAM" MEANS THE PREPAID HIGHER EDUCATION EXPENSE
16 PROGRAM.

17 (G) "PURCHASER" MEANS A PERSON WHO MAKES OR IS OBLIGATED TO MAKE
18 PAYMENTS IN ACCORDANCE WITH AN ADVANCE PAYMENT CONTRACT.

19 (H) "QUALIFIED BENEFICIARY" MEANS AN INDIVIDUAL NAMED IN AN
20 ADVANCE PAYMENT CONTRACT TO RECEIVE THE BENEFIT OF THE CONTRACT AND
21 WHO IS:

22 (1) A RESIDENT OF THE STATE AT THE TIME THE PURCHASER ENTERS
23 THE ADVANCE PAYMENT CONTRACT; OR

24 (2) A NONRESIDENT OF THE STATE BUT IS THE CHILD OF A
25 NONCUSTODIAL PARENT WHO IS A RESIDENT OF THE STATE AT THE TIME THE
26 PARENT ENTERS AN ADVANCE PAYMENT CONTRACT.

27 18-2103.

28 (A) THERE IS A PREPAID HIGHER EDUCATION EXPENSE PROGRAM.

29 (B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE A MEANS WHEREBY:

30 (1) THE COST OF REGISTRATION AND, IF APPLICABLE, DORMITORY
31 RESIDENCE, MAY BE PAID IN ADVANCE OF ENROLLMENT AT AN ELIGIBLE
32 INSTITUTION AT A RATE LOWER THAN THE PROJECTED COST AT THE TIME OF
33 ACTUAL ENROLLMENT; AND

34 (2) A STUDENT WHO ENROLLS IN AN ELIGIBLE INSTITUTION IN
35 ACCORDANCE WITH AN ADVANCE PAYMENT CONTRACT MAY NOT BE CHARGED
36 ANY MANDATORY FEE IN EXCESS OF THE TERMS UNDER THE ADVANCE PAYMENT
37 CONTRACT.

4

1 18-2104.

2 (A) THERE IS A PREPAID HIGHER EDUCATION EXPENSE BOARD.

3 (B) (1) THE BOARD CONSISTS OF NINE MEMBERS APPOINTED BY THE
4 GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.

5 (2) OF THE NINE MEMBERS OF THE BOARD:

6 (I) TWO SHALL BE REPRESENTATIVES OF THE COMMISSION;

7 (II) ONE SHALL BE A REPRESENTATIVE OF THE OFFICE OF STATE
8 COMPTROLLER;

9 (III) ONE SHALL BE A REPRESENTATIVE OF THE DEPARTMENT OF
10 BUDGET AND FISCAL PLANNING; AND

11 (IV) FIVE SHALL BE MEMBERS OF THE GENERAL PUBLIC.

12 (3) MEMBERS OF THE BOARD SHALL BE SELECTED BASED ON THEIR
13 ACCOUNTING, ACTUARIAL, OR INVESTMENT MANAGEMENT SKILLS, OR OTHER
14 SKILLS THAT WOULD PROVE AN ASSET TO THE BOARD.

15 (C) BEFORE TAKING OFFICE, EACH APPOINTEE TO THE BOARD SHALL TAKE
16 THE OATH REQUIRED BY ARTICLE I, § 9 OF THE CONSTITUTION OF MARYLAND.

17 (D) (1) EXCEPT FOR THE TERMS OF INITIAL BOARD MEMBERS, THE TERM
18 OF A MEMBER OF THE BOARD IS 4 YEARS.

19 (2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE
20 TERMS OF MEMBERS OF THE BOARD ON OCTOBER 1, 1996.

21 (3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A
22 SUCCESSOR IS APPOINTED AND QUALIFIES.

23 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
24 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
25 QUALIFIES.

26 (5) ANY MEMBER SHALL BE ELIGIBLE FOR REAPPOINTMENT.

27 (E) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
28 MISCONDUCT.

29 18-2105.

30 (A) (1) THE GOVERNOR SHALL APPOINT AN INITIAL CHAIRMAN OF THE
31 BOARD FROM AMONG THE MEMBERS OF THE BOARD.

32 (2) AFTER THE INITIAL APPOINTMENT OF A CHAIRMAN BY THE
33 GOVERNOR, THE MEMBERS OF THE BOARD SHALL ELECT ANNUALLY A CHAIRMAN.

34 (3) THE BOARD SHALL ELECT ANNUALLY A BOARD MEMBER TO SERVE
35 AS VICE CHAIRMAN.

5

1 (4) (I) THE BOARD SHALL DESIGNATE A SECRETARY-TREASURER
2 WHO NEED NOT BE A MEMBER OF THE BOARD.

3 (II) THE SECRETARY-TREASURER SHALL KEEP A RECORD OF THE
4 PROCEEDINGS OF THE BOARD AND SHALL BE THE CUSTODIAN OF THE BOARD'S
5 OFFICIAL SEAL AND ALL PRINTED MATERIAL FILED WITH OR BY THE BOARD.

6 (5) FROM AMONG THE MEMBERS, THE BOARD MAY ELECT ANY
7 ADDITIONAL OFFICERS THAT THE BOARD CONSIDERS NECESSARY.

8 (B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS
9 MEETINGS.

10 (C) A MEMBER OF THE BOARD:

11 (1) MAY NOT RECEIVE COMPENSATION;

12 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
13 STANDARD STATE TRAVEL REGULATIONS; AND

14 (3) SHALL FILE A FULL AND PUBLIC DISCLOSURE OF ALL FINANCIAL
15 INTERESTS.

16 (D) THE BOARD:

17 (1) SHALL APPOINT AN EXECUTIVE DIRECTOR WHO IS IN THE
18 UNCLASSIFIED SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM TO
19 SERVE AS THE CHIEF ADMINISTRATIVE AND OPERATIONAL OFFICER OF THE BOARD
20 AND TO PERFORM OTHER DUTIES ASSIGNED BY THE BOARD;

21 (2) MAY EMPLOY ADDITIONAL STAFF IN ACCORDANCE WITH ITS
22 BUDGET; AND

23 (3) MAY HIRE CONSULTANTS, ADMINISTRATORS, AND OTHER
24 PROFESSIONALS AS NECESSARY TO IMPLEMENT, ADMINISTER, AND MAINTAIN THE
25 PROGRAM.

26 18-2106.

27 THE BOARD MAY:

28 (1) ADOPT AN OFFICIAL SEAL;

29 (2) ADOPT ANY REGULATION THAT THE BOARD CONSIDERS
30 NECESSARY TO CARRY OUT THIS SUBTITLE;

31 (3) SUE AND BE SUED;

32 (4) EXECUTE CONTRACTS AND OTHER NECESSARY INSTRUMENTS;

33 (5) HOLD, BUY, AND SELL INSTRUMENTS, OBLIGATIONS, SECURITIES,
34 AND OTHER INVESTMENTS CONSISTENT WITH ITS COMPREHENSIVE INVESTMENT
35 PLAN;

6

1 (6) ENTER INTO AGREEMENTS WITH ELIGIBLE INSTITUTIONS AND
2 OTHER PUBLIC OR PRIVATE ENTITIES FOR THE PROMOTION, ADMINISTRATION, OR
3 MARKETING OF THE PROGRAM;

4 (7) INVEST FUNDS NOT REQUIRED FOR IMMEDIATE DISBURSEMENT;

5 (8) SOLICIT AND ACCEPT GIFTS, GRANTS, LOANS, OR OTHER AID FROM
6 ANY SOURCE OR PARTICIPATE IN ANY GOVERNMENT PROGRAM FOR PURPOSES
7 CONSISTENT WITH THIS SUBTITLE;

8 (9) IMPOSE AND COLLECT REASONABLE ADMINISTRATIVE FEES FOR
9 ANY TRANSACTION INVOLVING ADVANCE PAYMENT CONTRACTS OR
10 TRANSACTIONS AFFECTING THE FUND;

11 (10) PROCURE INSURANCE AGAINST ANY LOSS OF ASSETS OF THE FUND;

12 (11) ENDORSE INSURANCE COVERAGE WRITTEN EXCLUSIVELY FOR THE
13 PURPOSE OF PROTECTING ADVANCE PAYMENT CONTRACTS AND THE PURCHASER
14 AND QUALIFIED BENEFICIARY OF THE CONTRACT;

15 (12) DESIGNATE TERMS UNDER WHICH MONEY MAY BE WITHDRAWN
16 FROM THE FUND;

17 (13) ESTABLISH ADDITIONAL PROCEDURAL AND SUBSTANTIVE
18 REQUIREMENTS FOR PARTICIPATION IN AND ADMINISTRATION OR MARKETING OF
19 THE PROGRAM;

20 (14) APPEAR ON THE BOARD'S OWN BEHALF BEFORE OTHER BOARDS,
21 COMMISSIONS, OR OTHER GOVERNMENTAL AGENCIES; AND

22 (15) TAKE ANY OTHER ACTION THAT THE BOARD CONSIDERS
23 APPROPRIATE TO IMPLEMENT AND ADMINISTER THE PROGRAM.

24 18-2107.

25 (A) THERE IS A PREPAID HIGHER EDUCATION EXPENSE TRUST FUND.

26 (B) THE FUND SHALL CONSIST OF:

27 (1) MONEY RECEIVED IN ACCORDANCE WITH ADVANCE PAYMENT
28 CONTRACTS;

29 (2) STATE APPROPRIATIONS;

30 (3) INTEREST, DIVIDENDS, AND OTHER EARNINGS DERIVED FROM
31 INVESTMENTS OF THE FUND; AND

32 (4) ANY OTHER MONEY ACCEPTED BY THE BOARD FROM ANY PUBLIC
33 OR PRIVATE SOURCE FOR INCLUSION IN THE FUND.

34 (C) (1) THE BOARD SHALL ADOPT A COMPREHENSIVE INVESTMENT PLAN
35 FOR ADMINISTRATION OF THE FUND WHICH SHALL SPECIFY THE INVESTMENT
36 POLICIES TO BE UTILIZED BY THE BOARD IN ITS ADMINISTRATION OF THE FUND.

7

1 (2) ASSETS OF THE FUND SHALL BE INVESTED IN ACCORDANCE WITH
2 THE COMPREHENSIVE INVESTMENT PLAN.

3 (3) (I) NOTWITHSTANDING ANY LAW RESTRICTING THE DEPOSIT OR
4 INVESTMENT OF STATE FUNDS, THE BOARD MAY PLACE ASSETS OF THE FUND IN
5 SAVINGS ACCOUNTS OR MAY USE THE ASSETS TO PURCHASE FIXED OR VARIABLE
6 LIFE INSURANCE OR ANNUITY CONTRACTS, SECURITIES, EVIDENCE OF
7 INDEBTEDNESS, OR OTHER INVESTMENT PRODUCTS PURSUANT TO THE
8 COMPREHENSIVE INVESTMENT PLAN.

9 (II) ANY INSURANCE, ANNUITY CONTRACTS, SAVINGS, OR OTHER
10 INVESTMENT PRODUCTS PROCURED BY THE BOARD SHALL BE UNDERWRITTEN
11 AND OFFERED IN COMPLIANCE WITH APPLICABLE FEDERAL AND STATE LAWS.

12 (4) ASSETS OF THE FUND SHALL BE INVESTED IN A MANNER THAT
13 EARNS, AT A MINIMUM, SUFFICIENT EARNINGS TO GENERATE THE DIFFERENCE
14 BETWEEN THE PREPAID AMOUNT UNDER ADVANCE PURCHASE CONTRACTS AND
15 ACTUAL COSTS AT THE TIME OF ENROLLMENT.

16 (5) THE PLAN SHALL PROVIDE FOR THE FUND TO BE ADMINISTERED IN
17 AN ACTUARIALLY SOUND MANNER TO ASSURE THAT THE BOARD MAY DEFRAID
18 OBLIGATIONS OF THE PROGRAM.

19 (6) THE BOARD SHALL REVIEW THE COMPREHENSIVE INVESTMENT
20 PLAN AT LEAST ANNUALLY TO ASSURE THAT THE PROGRAM REMAINS
21 ACTUARIALLY SOUND.

22 (7) AFTER EACH ANNUAL REVIEW OF THE COMPREHENSIVE
23 INVESTMENT PLAN FOR ACTUARIAL SOUNDNESS, THE BOARD MAY ADJUST THE
24 TERMS OF SUBSEQUENT ADVANCE PAYMENT CONTRACTS TO ENSURE CONTINUED
25 ACTUARIAL SOUNDNESS.

26 (8) THE BOARD MAY CONTRACT WITH AN INVESTMENT ADVISORY OR
27 MANAGEMENT COMPANY FOR THE INVESTMENT AND MANAGEMENT OF THE FUND
28 AS LONG AS THE FUND IS ADMINISTERED IN ACCORDANCE WITH THE
29 COMPREHENSIVE INVESTMENT PLAN.

30 (D) (1) THE FUND IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND
31 PROCUREMENT ARTICLE.

32 (2) ASSETS OF THE FUND MAY BE USED ONLY FOR PURPOSES
33 AUTHORIZED UNDER THIS SUBTITLE.

34 (E) UNLESS THE BOARD PROVIDES OTHERWISE BY REGULATION, THE
35 BOARD SHALL USE THE PROCEEDS IN THE FUND IN THE FOLLOWING ORDER:

36 (1) TO PAY ELIGIBLE INSTITUTIONS IN ACCORDANCE WITH THE
37 BOARD'S OBLIGATIONS UNDER ADVANCE PAYMENT CONTRACTS;

38 (2) TO REFUND MONEY ON THE TERMINATION OF ADVANCE PAYMENT
39 CONTRACTS; AND

40 (3) TO PAY THE OPERATING EXPENSES OF THE BOARD.

8

1 (F) THE BOOKS, RECORDS, AND ACCOUNTS OF THE BOARD AND THE FUND
2 ARE SUBJECT TO AUDIT BY THE LEGISLATIVE AUDITOR.

3 18-2108.

4 (A) IN THIS SECTION, "DIRECT-SUPPORT ORGANIZATION" MEANS AN
5 ORGANIZATION WHICH:

6 (1) IS A MARYLAND NONSTOCK CORPORATION INCORPORATED UNDER
7 TITLE 5, SUBTITLE 2 OF THE CORPORATIONS AND ASSOCIATIONS ARTICLE;

8 (2) IS ORGANIZED AND OPERATED EXCLUSIVELY TO RECEIVE, HOLD,
9 INVEST, AND ADMINISTER PROPERTY AND TO MAKE EXPENDITURES TO OR FOR
10 THE BENEFIT OF THE PROGRAM;

11 (3) HAS BEEN CERTIFIED BY THE BOARD, AFTER REVIEW, TO BE
12 OPERATING IN A MANNER CONSISTENT WITH THE GOALS OF THE PROGRAM AND IN
13 THE BEST INTERESTS OF THE PROGRAM; AND

14 (4) IS SUBJECT TO AN ANNUAL POSTAUDIT BY AN INDEPENDENT
15 CERTIFIED PUBLIC ACCOUNTANT IN ACCORDANCE WITH RULES PROMULGATED BY
16 THE BOARD.

17 (B) THE BOARD MAY ESTABLISH A DIRECT-SUPPORT ORGANIZATION.

18 (C) THE CHAIRMAN OF THE BOARD AND THE EXECUTIVE DIRECTOR OF THE
19 PROGRAM SHALL BE DIRECTORS OF THE DIRECT-SUPPORT ORGANIZATION AND
20 SHALL NAME JOINTLY THREE OTHER INDIVIDUALS TO SERVE AS DIRECTORS OF
21 THE ORGANIZATION.

22 (D) IF THE BOARD FAILS TO CERTIFY THAT A DIRECT-SUPPORT
23 ORGANIZATION IS OPERATING IN ACCORDANCE WITH SUBSECTION (A)(3) OF THIS
24 SECTION, THE ORGANIZATION MAY NOT USE THE NAME OF THE PROGRAM.

25 (E) (1) AN AUDIT REQUIRED UNDER SUBSECTION (A)(4) OF THIS SECTION
26 SHALL BE SUBMITTED TO THE LEGISLATIVE AUDITOR FOR REVIEW.

27 (2) THE LEGISLATIVE AUDITOR MAY REQUIRE FROM THE
28 DIRECT-SUPPORT ORGANIZATION OR ITS INDEPENDENT AUDITOR ANY DETAIL OR
29 SUPPLEMENTAL DATA RELATIVE TO THE OPERATION OF THE PROGRAM.

30 (3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE IDENTITY
31 OF DONORS TO A DIRECT-SUPPORT ORGANIZATION WHO DESIRE TO REMAIN
32 ANONYMOUS SHALL BE CONFIDENTIAL AND THE ANONYMITY SHALL BE
33 MAINTAINED IN THE LEGISLATIVE AUDITOR'S REPORT.

34 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL RECORDS
35 OF A DIRECT-SUPPORT ORGANIZATION OTHER THAN THE REPORT OF THE
36 LEGISLATIVE AUDITOR AND ANY SUPPLEMENTAL DATA REQUESTED BY THE
37 LEGISLATIVE AUDITOR SHALL BE CONFIDENTIAL.

38 18-2109.

39 (A) THE BOARD SHALL ESTABLISH ADVANCE PAYMENT CONTRACTS FOR:

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1 (1) REGISTRATION AT COMMUNITY COLLEGES;

2 (2) REGISTRATION AT PUBLIC SENIOR HIGHER EDUCATION
3 INSTITUTIONS; AND

4 (3) DORMITORY FEES AT PUBLIC SENIOR HIGHER EDUCATION
5 INSTITUTIONS.

6 (B) AN ADVANCE PAYMENT CONTRACT SHALL INCLUDE:

7 (1) THE AMOUNT AND NUMBER OF PAYMENTS REQUIRED FROM A
8 PURCHASER;

9 (2) THE TERMS AND CONDITIONS GOVERNING REMITTANCE OF
10 PAYMENTS;

11 (3) PROVISIONS GOVERNING LATE PAYMENTS AND DEFAULTS;

12 (4) PENALTY PROVISIONS GOVERNING EARLY WITHDRAWALS FROM
13 THE FUND;

14 (5) THE NAME AND DATE OF BIRTH OF THE QUALIFIED BENEFICIARY;

15 (6) THE NAME OF ANY PERSON WHO MAY TERMINATE THE ADVANCE
16 PAYMENT CONTRACT;

17 (7) THE CONDITIONS UNDER WHICH AN ADVANCE PAYMENT
18 CONTRACT MAY BE TERMINATED;

19 (8) THE NAME OF THE PERSON ENTITLED TO ANY REFUND;

20 (9) THE TERMS AND CONDITIONS GOVERNING THE AMOUNT OF ANY
21 REFUND;

22 (10) THE TIME LIMITATIONS WITHIN WHICH THE QUALIFIED
23 BENEFICIARY SHALL CLAIM BENEFITS UNDER THE PROGRAM; AND

24 (11) ANY ADDITIONAL TERMS AND CONDITIONS THAT THE BOARD
25 CONSIDERS APPROPRIATE.

26 (C) THE BOARD MAY PROVIDE ADVANCE PAYMENT CONTRACTS FOR
27 PARTIAL FUTURE EDUCATION COSTS.

28 (D) NOTHING IN THIS SUBTITLE OR IN AN ADVANCE PAYMENT CONTRACT
29 MAY BE CONSTRUED TO GUARANTEE ACCEPTANCE INTO ANY ELIGIBLE
30 INSTITUTION OR AVAILABILITY OF ANY PROGRAM OR DORMITORY FACILITY.

31 18-2110.

32 (A) ADVANCE PAYMENT CONTRACTS SHALL BE AVAILABLE FOR THREE
33 INDEPENDENT PLANS TO BE KNOWN AS:

34 (1) THE COMMUNITY COLLEGE PLAN;

35 (2) THE UNIVERSITY PLAN; AND

10

1 (3) THE DORMITORY RESIDENCE PLAN.

2 (B) (1) AN ADVANCE PAYMENT CONTRACT FOR THE COMMUNITY COLLEGE
3 PLAN SHALL PROVIDE PREPAID REGISTRATION FEES FOR A SPECIFIED NUMBER OF
4 UNDERGRADUATE SEMESTER CREDIT HOURS NOT TO EXCEED THE AVERAGE
5 NUMBER OF HOURS REQUIRED FOR THE CONFERENCE OF AN ASSOCIATE DEGREE.

6 (2) THE COST OF PARTICIPATION IN THE COMMUNITY COLLEGE PLAN
7 SHALL BE BASED PRIMARILY ON THE AVERAGE CURRENT AND PROJECTED
8 REGISTRATION FEES FOR STATE COMMUNITY COLLEGES AND THE NUMBER OF
9 YEARS EXPECTED TO ELAPSE BETWEEN THE PURCHASE OF THE PLAN ON BEHALF
10 OF A QUALIFIED BENEFICIARY AND THE EXERCISE OF BENEFITS PROVIDED IN THE
11 PLAN BY THE BENEFICIARY.

12 (C) (1) AN ADVANCE PAYMENT CONTRACT FOR THE UNIVERSITY PLAN
13 SHALL PROVIDE PREPAID REGISTRATION FEES FOR A SPECIFIED NUMBER OF
14 UNDERGRADUATE SEMESTER CREDIT HOURS NOT TO EXCEED THE AVERAGE
15 NUMBER OF UNDERGRADUATE HOURS REQUIRED FOR THE CONFERENCE OF A
16 BACHELOR'S DEGREE.

17 (2) THE COST OF PARTICIPATION IN THE UNIVERSITY PLAN SHALL BE
18 BASED PRIMARILY ON THE CURRENT AND PROJECTED REGISTRATION FEES FOR
19 PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS AND THE NUMBER OF YEARS
20 EXPECTED TO ELAPSE BETWEEN THE PURCHASE OF THE PLAN ON BEHALF OF A
21 QUALIFIED BENEFICIARY AND THE EXERCISE OF THE BENEFITS PROVIDED IN THE
22 PLAN BY THE BENEFICIARY.

23 (3) A QUALIFIED BENEFICIARY SHALL BEAR THE COST OF ANY
24 LABORATORY FEES ASSOCIATED WITH ENROLLMENT IN SPECIFIC COURSES.

25 (D) (1) AN ADVANCE PAYMENT CONTRACT THROUGH THE DORMITORY
26 RESIDENCE PLAN SHALL PROVIDE PREPAID HOUSING FEES FOR A MAXIMUM OF TEN
27 SEMESTERS OF FULL-TIME UNDERGRADUATE ENROLLMENT IN A PUBLIC SENIOR
28 HIGHER EDUCATION INSTITUTION.

29 (2) THE COST OF PARTICIPATION IN THE DORMITORY RESIDENCE PLAN
30 SHALL BE BASED PRIMARILY ON THE AVERAGE CURRENT AND PROJECTED
31 HOUSING FEES FOR PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS AND THE
32 NUMBER OF YEARS EXPECTED TO ELAPSE BETWEEN THE PURCHASE OF THE PLAN
33 ON BEHALF OF A QUALIFIED BENEFICIARY AND THE EXERCISE OF THE BENEFITS
34 PROVIDED IN THE PLAN BY THE BENEFICIARY.

35 (3) A DORMITORY RESIDENCE PLAN IS OPTIONAL AND MAY BE
36 PURCHASED ONLY IN CONJUNCTION WITH A UNIVERSITY PLAN.

37 (4) A DORMITORY RESIDENCE PLAN SHALL BE PURCHASED IN
38 INCREMENTS OF TWO SEMESTERS.

39 (5) A QUALIFIED BENEFICIARY SHALL BEAR THE COST OF ANY
40 ADDITIONAL ELECTIVE CHARGES SUCH AS LAUNDRY SERVICE OR LONG-DISTANCE
41 TELEPHONE SERVICE.

11

1 (6) EACH PUBLIC SENIOR HIGHER EDUCATION INSTITUTION MAY
2 SPECIFY THE RESIDENCE HALLS ELIGIBLE FOR INCLUSION IN THE PLAN.

3 (7) ANY PUBLIC SENIOR HIGHER EDUCATION INSTITUTION MAY
4 REQUEST THE BOARD OR THE BOARD'S DESIGNEE FOR IMMEDIATE TERMINATION
5 OF A DORMITORY RESIDENCE CONTRACT BASED ON A VIOLATION OR MULTIPLE
6 VIOLATIONS OF RULES OF THE RESIDENCE HALL.

7 (8) A QUALIFIED BENEFICIARY SHALL HAVE THE HIGHEST PRIORITY IN
8 THE ASSIGNMENT OF HOUSING WITHIN PUBLIC SENIOR HIGHER EDUCATION
9 INSTITUTION RESIDENCE HALLS.

10 (9) IN THE EVENT THAT SUFFICIENT HOUSING IS NOT AVAILABLE FOR
11 ALL QUALIFIED BENEFICIARIES, THE BOARD SHALL GRANT A REFUND TO THE
12 PURCHASER OF AN ADVANCE PAYMENT CONTRACT OR THE QUALIFIED
13 BENEFICIARY UNDER THE CONTRACT.

14 18-2111.

15 (A) THE BOARD:

16 (1) SHALL ALLOW THE CONVERSION OF AN ADVANCE PAYMENT
17 CONTRACT PLAN TO ANOTHER PLAN OR CONVERSION FROM AN ELIGIBLE
18 INSTITUTION TO ANOTHER ELIGIBLE INSTITUTION; AND

19 (2) MAY ALLOW THE SUBSTITUTION OF QUALIFIED BENEFICIARIES
20 UNDER AN ADVANCE PAYMENT CONTRACT.

21 (B) THE BOARD SHALL ADOPT REGULATIONS GOVERNING CONVERSIONS,
22 INCLUDING COST ADJUSTMENTS.

23 18-2112.

24 (A) (1) THE BOARD SHALL ADOPT REGULATIONS GOVERNING REFUNDS
25 FROM THE PROGRAM.

26 (2) UNLESS AUTHORIZED UNDER REGULATIONS OF THE BOARD OR
27 UNDER SUBSECTION (B) OF THIS SECTION, A REFUND MAY NOT EXCEED THE
28 AMOUNT PAID INTO THE FUND BY THE PURCHASER.

29 (B) A REFUND OF THE AMOUNT PAID UNDER AN ADVANCE PAYMENT
30 CONTRACT, MINUS ANY AMOUNT PAID OUT OF THE FUND ON BEHALF OF THE
31 QUALIFIED BENEFICIARY, SHALL BE MADE WITH INTEREST AT A RATE SET BY THE
32 BOARD IF THE BENEFICIARY:

33 (1) IS AWARDED A SCHOLARSHIP THAT COVERS BENEFITS PROVIDED
34 UNDER THE ADVANCE PAYMENT CONTRACT; OR

35 (2) DIES OR SUFFERS FROM A TOTAL DISABILITY.

36 (C) (1) AN ADVANCE PAYMENT CONTRACT MAY PROVIDE THAT THE
37 ADVANCE PAYMENT CONTRACT IS TERMINATED WITHOUT ANY REFUND IF:

12

1 (I) BENEFITS ARE NOT EXERCISED UNDER THE ADVANCE
2 PAYMENT CONTRACT WITHIN A TIME SPECIFIED IN THE CONTRACT; AND

3 (II) THE ADVANCE PAYMENT CONTRACT IS NOT CANCELED.

4 (2) TIME THAT A QUALIFIED BENEFICIARY SPENDS IN ACTIVE DUTY AS
5 A MEMBER OF THE UNITED STATES ARMED FORCES SHALL BE ADDED TO THE TIME
6 PERIOD ALLOWED TO EXERCISE THE BENEFITS UNDER AN ADVANCE PAYMENT
7 CONTRACT BEFORE A TERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

8 18-2113.

9 THE BOARD, FUND, AND ADVANCE PAYMENT CONTRACTS ISSUED UNDER THIS
10 SUBTITLE ARE NOT SUBJECT TO THE PROVISIONS OF THE INSURANCE ARTICLE.

11 18-2114.

12 A PERSON MAY NOT ATTACH, EXECUTE, GARNISH, OR OTHERWISE SEIZE ANY
13 CURRENT OR FUTURE BENEFIT UNDER AN ADVANCE PAYMENT CONTRACT OR ANY
14 ASSET OF THE FUND.

15 18-2115.

16 (A) WITHIN 90 DAYS AFTER THE CLOSE OF EACH FISCAL YEAR, THE BOARD
17 SHALL SUBMIT TO THE GOVERNOR, AND, SUBJECT TO § 2-1312 OF THE STATE
18 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY A REPORT INCLUDING:

19 (1) A FINANCIAL ACCOUNTING OF THE FUND;

20 (2) THE NUMBER OF ADVANCE PAYMENT CONTRACTS ENTERED
21 DURING THE PREVIOUS FISCAL YEAR;

22 (3) EFFORTS BY THE BOARD IN MARKETING THE PROGRAM; AND

23 (4) ANY RECOMMENDATIONS OF THE BOARD CONCERNING THE
24 OPERATION OF THE PROGRAM.

25 (B) THE BOARD SHALL MAKE AVAILABLE TO EACH PURCHASER A COPY OF A
26 SUMMARY REPORT AND THE OPTION TO PURCHASE THE FULL REPORT AT A
27 NOMINAL CHARGE.

28 18-2116.

29 (A) THE STATE SHALL MEET THE OBLIGATIONS OF THE BOARD TO
30 QUALIFIED BENEFICIARIES IF THE FUND IS INADEQUATE TO MEET THE
31 OBLIGATIONS OF THE BOARD.

32 (B) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET AN
33 APPROPRIATION FROM THE GENERAL FUND TO MEET THE OBLIGATIONS OF THE
34 BOARD UNDER ADVANCE PAYMENT CONTRACTS IF THE BALANCE OF THE FUND IS
35 INADEQUATE FOR THE FOLLOWING FISCAL YEAR.

36 (C) (1) IF THE GENERAL ASSEMBLY DISCONTINUES THE PROGRAM, A
37 QUALIFIED BENEFICIARY WHO HAS BEEN ACCEPTED BY AN ELIGIBLE INSTITUTION
38 OR WHO IS WITHIN 5 YEARS OF ENROLLMENT AT AN ELIGIBLE INSTITUTION IS

13

1 ENTITLED TO EXERCISE THE BENEFITS IN ACCORDANCE WITH THE ADVANCE
2 PAYMENT CONTRACT.

3 (2) OTHER CONTRACT HOLDERS SHALL RECEIVE A REFUND IN
4 ACCORDANCE WITH THE ADVANCE PAYMENT CONTRACT PLUS INTEREST AT A
5 RATE DETERMINED BY THE BOARD.

6 **Article - State Government**

7 10-616.

8 (M) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A CUSTODIAN
9 SHALL DENY INSPECTION OF ANY RECORD DISCLOSING THE NAME OF A
10 PURCHASER OR QUALIFIED BENEFICIARY OF AN ADVANCE PAYMENT CONTRACT
11 UNDER TITLE 18, SUBTITLE 21 OF THE EDUCATION ARTICLE.

12 (2) A CUSTODIAN:

13 (I) SHALL PERMIT INSPECTION BY A PERSON IN INTEREST; AND

14 (II) MAY RELEASE INFORMATION TO AN ELIGIBLE INSTITUTION
15 DESIGNATED IN AN ADVANCE PAYMENT CONTRACT IN ACCORDANCE WITH
16 REGULATIONS OF THE PREPAID HIGHER EDUCATION EXPENSE BOARD.

17 SECTION 2. AND BE IT FURTHER ENACTED, That, for Fiscal Year 1997, the
18 Governor shall include in the State budget an appropriation for the Maryland Higher
19 Education Commission for the administrative and start-up costs for the Prepaid Higher
20 Education Expense Program.

21 SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial
22 members of the Prepaid Higher Education Expense Board shall expire as follows:

23 (1) two members in 1998;

24 (2) two members in 1999;

25 (3) two members in 2000; and

26 (4) three members in 2001.

27 SECTION 4. AND BE IT FURTHER ENACTED, That, before entering an
28 advance payment contract, the Prepaid Higher Education Expense Board shall solicit
29 opinion letters from:

30 (1) the United States Internal Revenue Service, concerning the tax status of
31 fees paid pursuant to an advance payment contract; and

32 (2) the United States Securities Exchange Commission, concerning the
33 application of federal security laws to the Prepaid Higher Education Expense Trust Fund.

34 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 1996.