
By: Delegates Mossburg and Hurson

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Assigned to: Appropriations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 1996

CHAPTER ____

1 AN ACT concerning

2 ~~Prepaid Higher Education Expense Program~~ Task Force on the Maryland Prepaid
3 Tuition Savings Program

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

25 FOR the purpose of establishing a Task Force on the Maryland Prepaid Tuition Savings
26 Program; specifying the membership, duties, and staffing of the Task Force;
27 requiring the Task Force to issue a certain report by a certain date; requiring the
28 disbanding of the Task Force by a certain date; providing for the effective date of

2

1 this Act; and generally relating to the Task Force on the Maryland Prepaid Tuition
2 Savings Program.

3 ~~BY repealing and reenacting, with amendments,~~
4 ~~Article—Education~~
5 ~~Section 11-105(h)(1)~~
6 ~~Annotated Code of Maryland~~
7 ~~(1992 Replacement Volume and 1995 Supplement)~~

8 ~~BY adding to~~
9 ~~Article—Education~~
10 ~~Section 18-2101 through 18-2116, inclusive, to be under the new subtitle "Subtitle~~
11 ~~21. Prepaid Higher Education Expense Program"~~
12 ~~Annotated Code of Maryland~~
13 ~~(1992 Replacement Volume and 1995 Supplement)~~

14 ~~BY adding to~~
15 ~~Article—State Government~~
16 ~~Section 10-616(m)~~
17 ~~Annotated Code of Maryland~~
18 ~~(1993 Replacement Volume and 1995 Supplement)~~

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

21 ~~**Article—Education**~~

22 ~~11-105.~~

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

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

28 ~~(ii) The Board of Regents of Morgan State University;~~

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

30 ~~(iv) The Maryland Higher Education Loan Corporation;~~

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

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

34 ~~(VII) THE PREPAID HIGHER EDUCATION EXPENSE BOARD.~~

1 ~~SUBTITLE 21. PREPAID HIGHER EDUCATION EXPENSE PROGRAM.~~

2
3 ~~48-2101.~~

4 ~~THE GENERAL ASSEMBLY FINDS THAT:~~

5 ~~(1) EDUCATIONAL OPPORTUNITY AT THE POSTSECONDARY LEVEL IS A~~
6 ~~CRITICAL STATE INTEREST;~~

7 ~~(2) EDUCATIONAL OPPORTUNITY OFTEN IS BEST ENSURED THROUGH~~
8 ~~THE STATE'S PUBLIC INSTITUTIONS OF HIGHER EDUCATION THAT ARE~~
9 ~~GEOGRAPHICALLY AND FINANCIALLY ACCESSIBLE;~~

10 ~~(3) THE COST OF POSTSECONDARY EDUCATION HAS ESCALATED AND~~
11 ~~CONSTITUTES A SUBSTANTIAL BARRIER FOR MANY FAMILIES SEEKING TO FINANCE~~
12 ~~POSTSECONDARY EDUCATION; AND~~

13 ~~(4) IT IS IN THE STATE'S INTEREST TO ASSIST FAMILIES IN PLANNING~~
14 ~~FOR POSTSECONDARY EDUCATION TO MEET BOTH THE INDIVIDUAL'S AND THE~~
15 ~~STATE'S FUTURE NEEDS.~~

16 ~~48-2102.~~

17 ~~(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~
18 ~~INDICATED.~~

19 ~~(B) "ADVANCE PAYMENT CONTRACT" MEANS A CONTRACT ENTERED INTO~~
20 ~~BETWEEN THE BOARD AND A PURCHASER.~~

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

22 ~~(D) "ELIGIBLE INSTITUTION" MEANS:~~

23 ~~(1) A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION; OR~~

24 ~~(2) A COMMUNITY COLLEGE.~~

25 ~~(E) "FUND" MEANS THE PREPAID HIGHER EDUCATION EXPENSE TRUST~~
26 ~~FUND.~~

27 ~~(F) "PROGRAM" MEANS THE PREPAID HIGHER EDUCATION EXPENSE~~
28 ~~PROGRAM.~~

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

31 ~~(H) "QUALIFIED BENEFICIARY" MEANS AN INDIVIDUAL NAMED IN AN~~
32 ~~ADVANCE PAYMENT CONTRACT TO RECEIVE THE BENEFIT OF THE CONTRACT AND~~
33 ~~WHO IS:~~

34 ~~(1) A RESIDENT OF THE STATE AT THE TIME THE PURCHASER ENTERS~~
35 ~~THE ADVANCE PAYMENT CONTRACT; OR~~

1 ~~(2) A NONRESIDENT OF THE STATE BUT IS THE CHILD OF A~~
2 ~~NONCUSTODIAL PARENT WHO IS A RESIDENT OF THE STATE AT THE TIME THE~~
3 ~~PARENT ENTERS AN ADVANCE PAYMENT CONTRACT.~~

4 ~~18-2103.~~

5 ~~(A) THERE IS A PREPAID HIGHER EDUCATION EXPENSE PROGRAM.~~

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

7 ~~(1) THE COST OF REGISTRATION AND, IF APPLICABLE, DORMITORY~~
8 ~~RESIDENCE, MAY BE PAID IN ADVANCE OF ENROLLMENT AT AN ELIGIBLE~~
9 ~~INSTITUTION AT A RATE LOWER THAN THE PROJECTED COST AT THE TIME OF~~
10 ~~ACTUAL ENROLLMENT; AND~~

11 ~~(2) A STUDENT WHO ENROLLS IN AN ELIGIBLE INSTITUTION IN~~
12 ~~ACCORDANCE WITH AN ADVANCE PAYMENT CONTRACT MAY NOT BE CHARGED~~
13 ~~ANY MANDATORY FEE IN EXCESS OF THE TERMS UNDER THE ADVANCE PAYMENT~~
14 ~~CONTRACT.~~

15 ~~18-2104.~~

16 ~~(A) THERE IS A PREPAID HIGHER EDUCATION EXPENSE BOARD.~~

17 ~~(B) (1) THE BOARD CONSISTS OF NINE MEMBERS APPOINTED BY THE~~
18 ~~GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE.~~

19 ~~(2) OF THE NINE MEMBERS OF THE BOARD:~~

20 ~~(I) TWO SHALL BE REPRESENTATIVES OF THE COMMISSION;~~

21 ~~(II) ONE SHALL BE A REPRESENTATIVE OF THE OFFICE OF STATE~~
22 ~~COMPTROLLER;~~

23 ~~(III) ONE SHALL BE A REPRESENTATIVE OF THE DEPARTMENT OF~~
24 ~~BUDGET AND FISCAL PLANNING; AND~~

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

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

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

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

33 ~~(2) THE TERMS OF MEMBERS ARE STAGGERED AS REQUIRED BY THE~~
34 ~~TERMS OF MEMBERS OF THE BOARD ON OCTOBER 1, 1996.~~

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

1 ~~(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES~~
2 ~~ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND~~
3 ~~QUALIFIES.~~

4 ~~(5) ANY MEMBER SHALL BE ELIGIBLE FOR REAPPOINTMENT.~~

5 ~~(E) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR~~
6 ~~MISCONDUCT.~~

7 ~~18-2105.~~

8 ~~(A) (1) THE GOVERNOR SHALL APPOINT AN INITIAL CHAIRMAN OF THE~~
9 ~~BOARD FROM AMONG THE MEMBERS OF THE BOARD.~~

10 ~~(2) AFTER THE INITIAL APPOINTMENT OF A CHAIRMAN BY THE~~
11 ~~GOVERNOR, THE MEMBERS OF THE BOARD SHALL ELECT ANNUALLY A CHAIRMAN.~~

12 ~~(3) THE BOARD SHALL ELECT ANNUALLY A BOARD MEMBER TO SERVE~~
13 ~~AS VICE-CHAIRMAN.~~

14 ~~(4) (I) THE BOARD SHALL DESIGNATE A SECRETARY-TREASURER~~
15 ~~WHO NEED NOT BE A MEMBER OF THE BOARD.~~

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

19 ~~(5) FROM AMONG THE MEMBERS, THE BOARD MAY ELECT ANY~~
20 ~~ADDITIONAL OFFICERS THAT THE BOARD CONSIDERS NECESSARY.~~

21 ~~(B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF ITS~~
22 ~~MEETINGS.~~

23 ~~(C) A MEMBER OF THE BOARD:~~

24 ~~(1) MAY NOT RECEIVE COMPENSATION;~~

25 ~~(2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE~~
26 ~~STANDARD STATE TRAVEL REGULATIONS; AND~~

27 ~~(3) SHALL FILE A FULL AND PUBLIC DISCLOSURE OF ALL FINANCIAL~~
28 ~~INTERESTS.~~

29 ~~(D) THE BOARD:~~

30 ~~(1) SHALL APPOINT AN EXECUTIVE DIRECTOR WHO IS IN THE~~
31 ~~UNCLASSIFIED SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM TO~~
32 ~~SERVE AS THE CHIEF ADMINISTRATIVE AND OPERATIONAL OFFICER OF THE BOARD~~
33 ~~AND TO PERFORM OTHER DUTIES ASSIGNED BY THE BOARD;~~

34 ~~(2) MAY EMPLOY ADDITIONAL STAFF IN ACCORDANCE WITH ITS~~
35 ~~BUDGET; AND~~

1 ~~(3) MAY HIRE CONSULTANTS, ADMINISTRATORS, AND OTHER~~
2 ~~PROFESSIONALS AS NECESSARY TO IMPLEMENT, ADMINISTER, AND MAINTAIN THE~~
3 ~~PROGRAM.~~

4 ~~18-2106.~~

5 ~~THE BOARD MAY:~~

6 ~~(1) ADOPT AN OFFICIAL SEAL;~~

7 ~~(2) ADOPT ANY REGULATION THAT THE BOARD CONSIDERS~~
8 ~~NECESSARY TO CARRY OUT THIS SUBTITLE;~~

9 ~~(3) SUE AND BE SUED;~~

10 ~~(4) EXECUTE CONTRACTS AND OTHER NECESSARY INSTRUMENTS;~~

11 ~~(5) HOLD, BUY, AND SELL INSTRUMENTS, OBLIGATIONS, SECURITIES,~~
12 ~~AND OTHER INVESTMENTS CONSISTENT WITH ITS COMPREHENSIVE INVESTMENT~~
13 ~~PLAN;~~

14 ~~(6) ENTER INTO AGREEMENTS WITH ELIGIBLE INSTITUTIONS AND~~
15 ~~OTHER PUBLIC OR PRIVATE ENTITIES FOR THE PROMOTION, ADMINISTRATION, OR~~
16 ~~MARKETING OF THE PROGRAM;~~

17 ~~(7) INVEST FUNDS NOT REQUIRED FOR IMMEDIATE DISBURSEMENT;~~

18 ~~(8) SOLICIT AND ACCEPT GIFTS, GRANTS, LOANS, OR OTHER AID FROM~~
19 ~~ANY SOURCE OR PARTICIPATE IN ANY GOVERNMENT PROGRAM FOR PURPOSES~~
20 ~~CONSISTENT WITH THIS SUBTITLE;~~

21 ~~(9) IMPOSE AND COLLECT REASONABLE ADMINISTRATIVE FEES FOR~~
22 ~~ANY TRANSACTION INVOLVING ADVANCE PAYMENT CONTRACTS OR~~
23 ~~TRANSACTIONS AFFECTING THE FUND;~~

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

25 ~~(11) ENDORSE INSURANCE COVERAGE WRITTEN EXCLUSIVELY FOR THE~~
26 ~~PURPOSE OF PROTECTING ADVANCE PAYMENT CONTRACTS AND THE PURCHASER~~
27 ~~AND QUALIFIED BENEFICIARY OF THE CONTRACT;~~

28 ~~(12) DESIGNATE TERMS UNDER WHICH MONEY MAY BE WITHDRAWN~~
29 ~~FROM THE FUND;~~

30 ~~(13) ESTABLISH ADDITIONAL PROCEDURAL AND SUBSTANTIVE~~
31 ~~REQUIREMENTS FOR PARTICIPATION IN AND ADMINISTRATION OR MARKETING OF~~
32 ~~THE PROGRAM;~~

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

35 ~~(15) TAKE ANY OTHER ACTION THAT THE BOARD CONSIDERS~~
36 ~~APPROPRIATE TO IMPLEMENT AND ADMINISTER THE PROGRAM.~~

1 ~~18-2107.~~

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

3 ~~(B) THE FUND SHALL CONSIST OF:~~

4 ~~(1) MONEY RECEIVED IN ACCORDANCE WITH ADVANCE PAYMENT~~
5 ~~CONTRACTS;~~

6 ~~(2) STATE APPROPRIATIONS;~~

7 ~~(3) INTEREST, DIVIDENDS, AND OTHER EARNINGS DERIVED FROM~~
8 ~~INVESTMENTS OF THE FUND; AND~~

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

11 ~~(C) (1) THE BOARD SHALL ADOPT A COMPREHENSIVE INVESTMENT PLAN~~
12 ~~FOR ADMINISTRATION OF THE FUND WHICH SHALL SPECIFY THE INVESTMENT~~
13 ~~POLICIES TO BE UTILIZED BY THE BOARD IN ITS ADMINISTRATION OF THE FUND.~~

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

16 ~~(3) (I) NOTWITHSTANDING ANY LAW RESTRICTING THE DEPOSIT OR~~
17 ~~INVESTMENT OF STATE FUNDS, THE BOARD MAY PLACE ASSETS OF THE FUND IN~~
18 ~~SAVINGS ACCOUNTS OR MAY USE THE ASSETS TO PURCHASE FIXED OR VARIABLE~~
19 ~~LIFE INSURANCE OR ANNUITY CONTRACTS, SECURITIES, EVIDENCE OF~~
20 ~~INDEBTEDNESS, OR OTHER INVESTMENT PRODUCTS PURSUANT TO THE~~
21 ~~COMPREHENSIVE INVESTMENT PLAN.~~

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

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

29 ~~(5) THE PLAN SHALL PROVIDE FOR THE FUND TO BE ADMINISTERED IN~~
30 ~~AN ACTUARIALLY SOUND MANNER TO ASSURE THAT THE BOARD MAY DEFRAY~~
31 ~~OBLIGATIONS OF THE PROGRAM.~~

32 ~~(6) THE BOARD SHALL REVIEW THE COMPREHENSIVE INVESTMENT~~
33 ~~PLAN AT LEAST ANNUALLY TO ASSURE THAT THE PROGRAM REMAINS~~
34 ~~ACTUARIALLY SOUND.~~

35 ~~(7) AFTER EACH ANNUAL REVIEW OF THE COMPREHENSIVE~~
36 ~~INVESTMENT PLAN FOR ACTUARIAL SOUNDNESS, THE BOARD MAY ADJUST THE~~
37 ~~TERMS OF SUBSEQUENT ADVANCE PAYMENT CONTRACTS TO ENSURE CONTINUED~~
38 ~~ACTUARIAL SOUNDNESS.~~

1 ~~(8) THE BOARD MAY CONTRACT WITH AN INVESTMENT ADVISORY OR~~
2 ~~MANAGEMENT COMPANY FOR THE INVESTMENT AND MANAGEMENT OF THE FUND~~
3 ~~AS LONG AS THE FUND IS ADMINISTERED IN ACCORDANCE WITH THE~~
4 ~~COMPREHENSIVE INVESTMENT PLAN.~~

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

7 ~~(2) ASSETS OF THE FUND MAY BE USED ONLY FOR PURPOSES~~
8 ~~AUTHORIZED UNDER THIS SUBTITLE.~~

9 ~~(E) UNLESS THE BOARD PROVIDES OTHERWISE BY REGULATION, THE~~
10 ~~BOARD SHALL USE THE PROCEEDS IN THE FUND IN THE FOLLOWING ORDER:~~

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

13 ~~(2) TO REFUND MONEY ON THE TERMINATION OF ADVANCE PAYMENT~~
14 ~~CONTRACTS; AND~~

15 ~~(3) TO PAY THE OPERATING EXPENSES OF THE BOARD.~~

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

18 ~~48-2108.~~

19 ~~(A) IN THIS SECTION, "DIRECT SUPPORT ORGANIZATION" MEANS AN~~
20 ~~ORGANIZATION WHICH:~~

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

23 ~~(2) IS ORGANIZED AND OPERATED EXCLUSIVELY TO RECEIVE, HOLD,~~
24 ~~INVEST, AND ADMINISTER PROPERTY AND TO MAKE EXPENDITURES TO OR FOR~~
25 ~~THE BENEFIT OF THE PROGRAM;~~

26 ~~(3) HAS BEEN CERTIFIED BY THE BOARD, AFTER REVIEW, TO BE~~
27 ~~OPERATING IN A MANNER CONSISTENT WITH THE GOALS OF THE PROGRAM AND IN~~
28 ~~THE BEST INTERESTS OF THE PROGRAM; AND~~

29 ~~(4) IS SUBJECT TO AN ANNUAL POSTAUDIT BY AN INDEPENDENT~~
30 ~~CERTIFIED PUBLIC ACCOUNTANT IN ACCORDANCE WITH RULES PROMULGATED BY~~
31 ~~THE BOARD.~~

32 ~~(B) THE BOARD MAY ESTABLISH A DIRECT SUPPORT ORGANIZATION.~~

33 ~~(C) THE CHAIRMAN OF THE BOARD AND THE EXECUTIVE DIRECTOR OF THE~~
34 ~~PROGRAM SHALL BE DIRECTORS OF THE DIRECT SUPPORT ORGANIZATION AND~~
35 ~~SHALL NAME JOINTLY THREE OTHER INDIVIDUALS TO SERVE AS DIRECTORS OF~~
36 ~~THE ORGANIZATION.~~

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

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

6 ~~(2) THE LEGISLATIVE AUDITOR MAY REQUIRE FROM THE~~
7 ~~DIRECT SUPPORT ORGANIZATION OR ITS INDEPENDENT AUDITOR ANY DETAIL OR~~
8 ~~SUPPLEMENTAL DATA RELATIVE TO THE OPERATION OF THE PROGRAM.~~

9 ~~(3) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE IDENTITY~~
10 ~~OF DONORS TO A DIRECT SUPPORT ORGANIZATION WHO DESIRE TO REMAIN~~
11 ~~ANONYMOUS SHALL BE CONFIDENTIAL AND THE ANONYMITY SHALL BE~~
12 ~~MAINTAINED IN THE LEGISLATIVE AUDITOR'S REPORT.~~

13 ~~(4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL RECORDS~~
14 ~~OF A DIRECT SUPPORT ORGANIZATION OTHER THAN THE REPORT OF THE~~
15 ~~LEGISLATIVE AUDITOR AND ANY SUPPLEMENTAL DATA REQUESTED BY THE~~
16 ~~LEGISLATIVE AUDITOR SHALL BE CONFIDENTIAL.~~

17 ~~48-2109.~~

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

19 ~~(1) REGISTRATION AT COMMUNITY COLLEGES;~~

20 ~~(2) REGISTRATION AT PUBLIC SENIOR HIGHER EDUCATION~~
21 ~~INSTITUTIONS; AND~~

22 ~~(3) DORMITORY FEES AT PUBLIC SENIOR HIGHER EDUCATION~~
23 ~~INSTITUTIONS.~~

24 ~~(B) AN ADVANCE PAYMENT CONTRACT SHALL INCLUDE:~~

25 ~~(1) THE AMOUNT AND NUMBER OF PAYMENTS REQUIRED FROM A~~
26 ~~PURCHASER;~~

27 ~~(2) THE TERMS AND CONDITIONS GOVERNING REMITTANCE OF~~
28 ~~PAYMENTS;~~

29 ~~(3) PROVISIONS GOVERNING LATE PAYMENTS AND DEFAULTS;~~

30 ~~(4) PENALTY PROVISIONS GOVERNING EARLY WITHDRAWALS FROM~~
31 ~~THE FUND;~~

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

33 ~~(6) THE NAME OF ANY PERSON WHO MAY TERMINATE THE ADVANCE~~
34 ~~PAYMENT CONTRACT;~~

35 ~~(7) THE CONDITIONS UNDER WHICH AN ADVANCE PAYMENT~~
36 ~~CONTRACT MAY BE TERMINATED;~~

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

10

1 ~~(9) THE TERMS AND CONDITIONS GOVERNING THE AMOUNT OF ANY~~
2 ~~REFUND;~~

3 ~~(10) THE TIME LIMITATIONS WITHIN WHICH THE QUALIFIED~~
4 ~~BENEFICIARY SHALL CLAIM BENEFITS UNDER THE PROGRAM; AND~~

5 ~~(11) ANY ADDITIONAL TERMS AND CONDITIONS THAT THE BOARD~~
6 ~~CONSIDERS APPROPRIATE.~~

7 ~~(C) THE BOARD MAY PROVIDE ADVANCE PAYMENT CONTRACTS FOR~~
8 ~~PARTIAL FUTURE EDUCATION COSTS.~~

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

12 ~~48-2110.~~

13 ~~(A) ADVANCE PAYMENT CONTRACTS SHALL BE AVAILABLE FOR THREE~~
14 ~~INDEPENDENT PLANS TO BE KNOWN AS:~~

15 ~~(1) THE COMMUNITY COLLEGE PLAN;~~

16 ~~(2) THE UNIVERSITY PLAN; AND~~

17 ~~(3) THE DORMITORY RESIDENCE PLAN.~~

18 ~~(B) (1) AN ADVANCE PAYMENT CONTRACT FOR THE COMMUNITY COLLEGE~~
19 ~~PLAN SHALL PROVIDE PREPAID REGISTRATION FEES FOR A SPECIFIED NUMBER OF~~
20 ~~UNDERGRADUATE SEMESTER CREDIT HOURS NOT TO EXCEED THE AVERAGE~~
21 ~~NUMBER OF HOURS REQUIRED FOR THE CONFERENCE OF AN ASSOCIATE DEGREE.~~

22 ~~(2) THE COST OF PARTICIPATION IN THE COMMUNITY COLLEGE PLAN~~
23 ~~SHALL BE BASED PRIMARILY ON THE AVERAGE CURRENT AND PROJECTED~~
24 ~~REGISTRATION FEES FOR STATE COMMUNITY COLLEGES AND THE NUMBER OF~~
25 ~~YEARS EXPECTED TO ELAPSE BETWEEN THE PURCHASE OF THE PLAN ON BEHALF~~
26 ~~OF A QUALIFIED BENEFICIARY AND THE EXERCISE OF BENEFITS PROVIDED IN THE~~
27 ~~PLAN BY THE BENEFICIARY.~~

28 ~~(C) (1) AN ADVANCE PAYMENT CONTRACT FOR THE UNIVERSITY PLAN~~
29 ~~SHALL PROVIDE PREPAID REGISTRATION FEES FOR A SPECIFIED NUMBER OF~~
30 ~~UNDERGRADUATE SEMESTER CREDIT HOURS NOT TO EXCEED THE AVERAGE~~
31 ~~NUMBER OF UNDERGRADUATE HOURS REQUIRED FOR THE CONFERENCE OF A~~
32 ~~BACHELOR'S DEGREE.~~

33 ~~(2) THE COST OF PARTICIPATION IN THE UNIVERSITY PLAN SHALL BE~~
34 ~~BASED PRIMARILY ON THE CURRENT AND PROJECTED REGISTRATION FEES FOR~~
35 ~~PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS AND THE NUMBER OF YEARS~~
36 ~~EXPECTED TO ELAPSE BETWEEN THE PURCHASE OF THE PLAN ON BEHALF OF A~~
37 ~~QUALIFIED BENEFICIARY AND THE EXERCISE OF THE BENEFITS PROVIDED IN THE~~
38 ~~PLAN BY THE BENEFICIARY.~~

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

1 ~~(D)(1) AN ADVANCE PAYMENT CONTRACT THROUGH THE DORMITORY~~
2 ~~RESIDENCE PLAN SHALL PROVIDE PREPAID HOUSING FEES FOR A MAXIMUM OF TEN~~
3 ~~SEMESTERS OF FULL TIME UNDERGRADUATE ENROLLMENT IN A PUBLIC SENIOR~~
4 ~~HIGHER EDUCATION INSTITUTION.~~

5 ~~(2) THE COST OF PARTICIPATION IN THE DORMITORY RESIDENCE PLAN~~
6 ~~SHALL BE BASED PRIMARILY ON THE AVERAGE CURRENT AND PROJECTED~~
7 ~~HOUSING FEES FOR PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS AND THE~~
8 ~~NUMBER OF YEARS EXPECTED TO ELAPSE BETWEEN THE PURCHASE OF THE PLAN~~
9 ~~ON BEHALF OF A QUALIFIED BENEFICIARY AND THE EXERCISE OF THE BENEFITS~~
10 ~~PROVIDED IN THE PLAN BY THE BENEFICIARY.~~

11 ~~(3) A DORMITORY RESIDENCE PLAN IS OPTIONAL AND MAY BE~~
12 ~~PURCHASED ONLY IN CONJUNCTION WITH A UNIVERSITY PLAN.~~

13 ~~(4) A DORMITORY RESIDENCE PLAN SHALL BE PURCHASED IN~~
14 ~~INCREMENTS OF TWO SEMESTERS.~~

15 ~~(5) A QUALIFIED BENEFICIARY SHALL BEAR THE COST OF ANY~~
16 ~~ADDITIONAL ELECTIVE CHARGES SUCH AS LAUNDRY SERVICE OR LONG-DISTANCE~~
17 ~~TELEPHONE SERVICE.~~

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

20 ~~(7) ANY PUBLIC SENIOR HIGHER EDUCATION INSTITUTION MAY~~
21 ~~REQUEST THE BOARD OR THE BOARD'S DESIGNEE FOR IMMEDIATE TERMINATION~~
22 ~~OF A DORMITORY RESIDENCE CONTRACT BASED ON A VIOLATION OR MULTIPLE~~
23 ~~VIOLATIONS OF RULES OF THE RESIDENCE HALL.~~

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

27 ~~(9) IN THE EVENT THAT SUFFICIENT HOUSING IS NOT AVAILABLE FOR~~
28 ~~ALL QUALIFIED BENEFICIARIES, THE BOARD SHALL GRANT A REFUND TO THE~~
29 ~~PURCHASER OF AN ADVANCE PAYMENT CONTRACT OR THE QUALIFIED~~
30 ~~BENEFICIARY UNDER THE CONTRACT.~~

31 ~~48-2111.~~

32 ~~(A) THE BOARD:~~

33 ~~(1) SHALL ALLOW THE CONVERSION OF AN ADVANCE PAYMENT~~
34 ~~CONTRACT PLAN TO ANOTHER PLAN OR CONVERSION FROM AN ELIGIBLE~~
35 ~~INSTITUTION TO ANOTHER ELIGIBLE INSTITUTION; AND~~

36 ~~(2) MAY ALLOW THE SUBSTITUTION OF QUALIFIED BENEFICIARIES~~
37 ~~UNDER AN ADVANCE PAYMENT CONTRACT.~~

38 ~~(B) THE BOARD SHALL ADOPT REGULATIONS GOVERNING CONVERSIONS,~~
39 ~~INCLUDING COST ADJUSTMENTS.~~

12

1 ~~48-2112.~~

2 (A) ~~(1) THE BOARD SHALL ADOPT REGULATIONS GOVERNING REFUNDS~~
3 ~~FROM THE PROGRAM.~~

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

7 (B) ~~A REFUND OF THE AMOUNT PAID UNDER AN ADVANCE PAYMENT~~
8 ~~CONTRACT, MINUS ANY AMOUNT PAID OUT OF THE FUND ON BEHALF OF THE~~
9 ~~QUALIFIED BENEFICIARY, SHALL BE MADE WITH INTEREST AT A RATE SET BY THE~~
10 ~~BOARD IF THE BENEFICIARY:~~

11 ~~(1) IS AWARDED A SCHOLARSHIP THAT COVERS BENEFITS PROVIDED~~
12 ~~UNDER THE ADVANCE PAYMENT CONTRACT; OR~~

13 ~~(2) DIES OR SUFFERS FROM A TOTAL DISABILITY.~~

14 (C) ~~(1) AN ADVANCE PAYMENT CONTRACT MAY PROVIDE THAT THE~~
15 ~~ADVANCE PAYMENT CONTRACT IS TERMINATED WITHOUT ANY REFUND IF:~~

16 ~~(I) BENEFITS ARE NOT EXERCISED UNDER THE ADVANCE~~
17 ~~PAYMENT CONTRACT WITHIN A TIME SPECIFIED IN THE CONTRACT; AND~~

18 ~~(II) THE ADVANCE PAYMENT CONTRACT IS NOT CANCELED.~~

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

23 ~~48-2113.~~

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

26 ~~48-2114.~~

27 ~~A PERSON MAY NOT ATTACH, EXECUTE, GARNISH, OR OTHERWISE SEIZE ANY~~
28 ~~CURRENT OR FUTURE BENEFIT UNDER AN ADVANCE PAYMENT CONTRACT OR ANY~~
29 ~~ASSET OF THE FUND.~~

30 ~~48-2115.~~

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

34 ~~(1) A FINANCIAL ACCOUNTING OF THE FUND;~~

35 ~~(2) THE NUMBER OF ADVANCE PAYMENT CONTRACTS ENTERED~~
36 ~~DURING THE PREVIOUS FISCAL YEAR;~~

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

13

1 ~~(4) ANY RECOMMENDATIONS OF THE BOARD CONCERNING THE~~
2 ~~OPERATION OF THE PROGRAM.~~

3 ~~(B) THE BOARD SHALL MAKE AVAILABLE TO EACH PURCHASER A COPY OF A~~
4 ~~SUMMARY REPORT AND THE OPTION TO PURCHASE THE FULL REPORT AT A~~
5 ~~NOMINAL CHARGE.~~

6 ~~18-2116.~~

7 ~~(A) THE STATE SHALL MEET THE OBLIGATIONS OF THE BOARD TO~~
8 ~~QUALIFIED BENEFICIARIES IF THE FUND IS INADEQUATE TO MEET THE~~
9 ~~OBLIGATIONS OF THE BOARD.~~

10 ~~(B) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET AN~~
11 ~~APPROPRIATION FROM THE GENERAL FUND TO MEET THE OBLIGATIONS OF THE~~
12 ~~BOARD UNDER ADVANCE PAYMENT CONTRACTS IF THE BALANCE OF THE FUND IS~~
13 ~~INADEQUATE FOR THE FOLLOWING FISCAL YEAR.~~

14 ~~(C) (1) IF THE GENERAL ASSEMBLY DISCONTINUES THE PROGRAM, A~~
15 ~~QUALIFIED BENEFICIARY WHO HAS BEEN ACCEPTED BY AN ELIGIBLE INSTITUTION~~
16 ~~OR WHO IS WITHIN 5 YEARS OF ENROLLMENT AT AN ELIGIBLE INSTITUTION IS~~
17 ~~ENTITLED TO EXERCISE THE BENEFITS IN ACCORDANCE WITH THE ADVANCE~~
18 ~~PAYMENT CONTRACT.~~

19 ~~(2) OTHER CONTRACT HOLDERS SHALL RECEIVE A REFUND IN~~
20 ~~ACCORDANCE WITH THE ADVANCE PAYMENT CONTRACT PLUS INTEREST AT A~~
21 ~~RATE DETERMINED BY THE BOARD.~~

22 **Article—State Government**

23 ~~10-616.~~

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

28 ~~(2) A CUSTODIAN:~~

29 ~~(i) SHALL PERMIT INSPECTION BY A PERSON IN INTEREST; AND~~

30 ~~(ii) MAY RELEASE INFORMATION TO AN ELIGIBLE INSTITUTION~~
31 ~~DESIGNATED IN AN ADVANCE PAYMENT CONTRACT IN ACCORDANCE WITH~~
32 ~~REGULATIONS OF THE PREPAID HIGHER EDUCATION EXPENSE BOARD.~~

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

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

39 ~~(1) two members in 1998;~~

14

1 ~~(2) two members in 1999;~~

2 ~~(3) two members in 2000; and~~

3 ~~(4) three members in 2001.~~

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

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

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

11 Preamble

12 WHEREAS, Educational opportunity at the postsecondary level is a critical State
13 interest; and

14 WHEREAS, Educational opportunity often is best ensured through the State's
15 institutions of higher education that are geographically and financially accessible; and

16 WHEREAS, The cost of postsecondary education has escalated and constitutes a
17 substantial barrier for many families seeking to finance postsecondary education; and

18 WHEREAS, It is in the State's interest to assist families in planning for
19 postsecondary education to meet both the individual's and State's future needs; now,
20 therefore,

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

23 (a) A Task Force on the Maryland Prepaid Tuition Savings Program shall be
24 established for the purpose of developing an implementation plan for a program allowing
25 for the advance payment of undergraduate tuition at higher education institutions in
26 Maryland.

27 (b) The Task Force shall consist of the following 12 members:

28 (1) Two members of the House of Delegates, to be appointed by the
29 Speaker of the House;

30 (2) Two members of the Senate of Maryland, to be appointed by the
31 President of the Senate;

32 (3) Two representatives of the Maryland Higher Education Commission, to
33 be appointed by the Governor;

34 (4) A representative of the Office of the State Treasurer, to be appointed by
35 the Treasurer;

15

1 (5) A representative of the Governor's Executive Staff, to be appointed by
2 the Governor;

3 (6) A representative of the Board of Regents of the University of Maryland
4 System, to be appointed by the Governor;

5 (7) A representative of the Maryland Independent Colleges and
6 Universities Association, to be appointed by the Governor; and

7 (8) Two members of the public who have significant experience in actuarial
8 analysis, finance, accounting, investment management, or other areas that are relevant to
9 the Task Force, to be appointed by the Governor.

10 (c) The Governor shall designate the Chairman of the Task Force.

11 (d) The Department of Fiscal Services and the Maryland Higher Education
12 Commission shall provide staff for the Task Force.

13 (e) A member of the Task Force may not receive compensation for serving on the
14 Task Force.

15 (f) The Task Force shall:

16 (1) Establish a plan for implementing a Maryland Prepaid Tuition Savings
17 Program, which would allow for the advance payment of undergraduate tuition at higher
18 education institutions in the State;

19 (2) Study a variety of issues relating to the Maryland Prepaid Tuition
20 Savings Program, including whether the program should offer a guarantee, whether the
21 program should be self-supporting and off-budget, what the structure of the program
22 should be, the tax status of fees paid pursuant to an advance payment contract, and the
23 application of federal security laws to a special trust fund established for prepaid tuition
24 payments.

25 (3) Consider membership of the board that will oversee the program and the
26 duties of that board;

27 (4) Determine the staffing and funding needs of the program;

28 (5) Consult with other states who have prepaid tuition savings programs;

29 (6) Receive other testimony that the Task Force considers appropriate; and

30 (7) Hold at least two public hearings on the Prepaid Tuition Savings
31 Program.

32 (g) (1) The Task Force shall make its final report on or before December 1,
33 1996 to the Governor, and, subject to § 2-1312 of the State Government Article, the
34 Senate Budget and Taxation Committee, the Senate Economic and Environmental
35 Affairs Committee, the House Appropriations Committee, and the House Ways and
36 Means Committee of the General Assembly.

37 (2) The Task Force shall include in its final report proposed legislation to be
38 introduced at the 1997 Session of the General Assembly.

1 (3) The Task Force shall terminate no later than May 31, 1997.

2 SECTION ~~5-~~ 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
3 ~~October~~ June 1, 1996.