

By: Senator Kasemeyer

Requested: July 27, 1995

Introduced and read first time: January 10, 1996

Assigned to: Budget and Taxation and Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Higher Education Tuition Trust Fund**

3 FOR the purpose of establishing a method to provide for the prepayment of tuition at the
4 public institutions of higher education in the State; establishing the Maryland
5 Higher Education Tuition Trust Fund; clarifying the purpose of the Fund and the
6 types of funds of which the Fund shall be composed; establishing a Maryland Higher
7 Education Tuition Trust Fund Board; specifying the membership, appointment,
8 terms, and removal of members of the Board; establishing the powers and duties of
9 the Board; establishing administrative rules for the Board; authorizing the Board to
10 adopt regulations to carry out its responsibilities; requiring the Board to adopt a
11 certain investment plan for the Fund; exempting the Fund from certain laws;
12 requiring the Board to establish a program of prepaid tuition contracts for tuition at
13 public institutions of higher education in the State; specifying certain requirements
14 concerning prepaid tuition contracts; requiring the Board to provide for certain
15 changes in circumstances of beneficiaries and purchasers of prepaid tuition
16 contracts; prohibiting any legal attachment of contract benefits or assets of the
17 Fund; authorizing certain public agencies to provide for payroll deductions for
18 employees to purchase prepaid tuition contracts; requiring an annual audit of the
19 Fund; requiring the Board to report to the Governor and General Assembly
20 annually concerning the audit and certain matters concerning the Fund; requiring
21 the State to meet certain obligations in certain circumstances; establishing
22 provisions for the discontinuance of the program; prohibiting inspection of certain
23 records except in certain circumstances; requiring a certain appropriation for a
24 certain fiscal year; establishing the terms of the initial members of the Board;
25 requiring the Board to solicit certain opinions before entering into certain contracts;
26 and generally relating to establishing a method to provide for the prepayment of
27 tuition at the public institutions of higher education in the State.

28 BY repealing and reenacting, with amendments,
29 Article - Education
30 Section 11-105(h)(1)
31 Annotated Code of Maryland
32 (1992 Replacement Volume and 1995 Supplement)

33 BY adding to

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2

1 Article - Education
2 Section 18-2101 through 18-2114, inclusive, to be under the new subtitle "Subtitle
3 21. Maryland Higher Education Tuition Trust Fund"
4 Annotated Code of Maryland
5 (1992 Replacement Volume and 1995 Supplement)

6 BY adding to

7 Article - State Government
8 Section 10-616(m)
9 Annotated Code of Maryland
10 (1995 Replacement Volume)

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

13 **Article - Education**

14 11-105.

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

- 19 (i) The Board of Regents of the University of Maryland System;
20 (ii) The Board of Regents of Morgan State University;
21 (iii) The Board of Trustees of St. Mary's College of Maryland;
22 (iv) The Maryland Higher Education Loan Corporation;
23 (v) The State Advisory Council for Title I of the Higher Education Act
24 of 1965; [and]

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

27 (VII) THE BOARD OF THE MARYLAND HIGHER EDUCATION
28 TUITION TRUST FUND.

29 SUBTITLE 21. MARYLAND HIGHER EDUCATION TUITION TRUST FUND.

30 18-2101.

31 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
32 INDICATED.

33 (B) "BOARD" MEANS THE BOARD OF THE MARYLAND HIGHER EDUCATION
34 TUITION TRUST FUND.

35 (C) "FUND" MEANS THE MARYLAND HIGHER EDUCATION TUITION TRUST
36 FUND.

1 (D) "PREPAID TUITION CONTRACT" MEANS A CONTRACT BETWEEN THE
2 BOARD AND A PURCHASER UNDER THE PROVISIONS OF THIS SUBTITLE FOR THE
3 ADVANCE PAYMENT OF UNDERGRADUATE TUITION AT A FIXED AND GUARANTEED
4 LEVEL BY THE PURCHASER FOR A QUALIFIED BENEFICIARY TO ATTEND A 2-YEAR
5 OR 4-YEAR PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE, IF THE
6 QUALIFIED BENEFICIARY IS ADMITTED TO THE INSTITUTION.

7 (E) "PURCHASER" MEANS AN INDIVIDUAL WHO MAKES OR UNDERTAKES THE
8 OBLIGATION TO MAKE ADVANCE PAYMENTS OF UNDERGRADUATE TUITION AS
9 PROVIDED UNDER A PREPAID TUITION CONTRACT.

10 (F) "QUALIFIED BENEFICIARY" MEANS AN INDIVIDUAL WHO IS ELIGIBLE TO
11 APPLY ADVANCE TUITION PAYMENTS TO UNDERGRADUATE TUITION AT A PUBLIC
12 INSTITUTION OF HIGHER EDUCATION IN THE STATE UNDER THE PROVISIONS OF
13 THIS SUBTITLE AND WHO IS:

14 (1) A RESIDENT OF THE STATE AT THE TIME THAT THE PURCHASER
15 ENTERS INTO A PREPAID TUITION CONTRACT; OR

16 (2) A NONRESIDENT OF THE STATE WHO IS THE CHILD OF A
17 NONCUSTODIAL PARENT WHO IS A RESIDENT OF THE STATE AT THE TIME THAT THE
18 PARENT BECOMES A PURCHASER OF A PREPAID TUITION CONTRACT.

19 (G) "TUITION" MEANS THE CHARGES IMPOSED BY A 2-YEAR OR 4-YEAR
20 PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE FOR ENROLLMENT AT
21 THE INSTITUTION AND INCLUDES REGISTRATION AND ALL FEES REQUIRED AS A
22 CONDITION OF ENROLLMENT.

23 18-2102.

24 IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ENHANCE THE
25 ACCESSIBILITY AND AFFORDABILITY OF HIGHER EDUCATION FOR ALL CITIZENS OF
26 THE STATE BY ESTABLISHING A METHOD TO PROVIDE FOR THE PREPAYMENT OF
27 TUITION AT THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN THE STATE.

28 18-2103.

29 (A) THERE IS A MARYLAND HIGHER EDUCATION TUITION TRUST FUND.

30 (B) THE PURPOSE OF THE FUND IS TO PROVIDE:

31 (1) A MEANS FOR PAYMENT IN ADVANCE OF ENROLLMENT AT ANY
32 PUBLIC INSTITUTION OF HIGHER EDUCATION IN THE STATE OF THE COST OF
33 TUITION AND, IF APPLICABLE, DORMITORY RESIDENCE, AT A RATE THAT IS LOWER
34 THAN THE PROJECTED COST AT THE TIME OF ACTUAL ENROLLMENT; AND

35 (2) A GUARANTEE TO A STUDENT WHO ENROLLS AT A PUBLIC
36 INSTITUTION OF HIGHER EDUCATION IN THE STATE THAT TUITION IN EXCESS OF
37 THE TERMS OF THE PREPAID TUITION CONTRACT WILL NOT BE CHARGED.

38 (C) THE FUND CONSISTS OF:

39 (1) PAYMENTS RECEIVED FROM PREPAID TUITION CONTRACTS MADE
40 UNDER THE PROVISIONS OF THIS SUBTITLE;

4

1 (2) BEQUESTS, ENDOWMENTS, OR FUNDS FROM ANY OTHER
2 AVAILABLE PRIVATE SOURCE;

3 (3) INTEREST AND INCOME EARNED FROM THE INVESTMENTS OF THE
4 FUND; AND

5 (4) FEDERAL, STATE, OR LOCAL FUNDS, OR FUNDS FROM ANY OTHER
6 AVAILABLE PUBLIC SOURCE.

7 (D) MONEY REMAINING IN THE FUND AT THE END OF THE FISCAL YEAR
8 SHALL REMAIN IN THE FUND AND MAY NOT REVERT TO THE GENERAL FUND.

9 18-2104.

10 (A) THERE IS A MARYLAND HIGHER EDUCATION TUITION TRUST FUND
11 BOARD.

12 (B) THE BOARD CONSISTS OF THE FOLLOWING NINE MEMBERS, APPOINTED
13 BY THE GOVERNOR:

14 (1) TWO REPRESENTATIVES OF THE HIGHER EDUCATION COMMISSION;

15 (2) A REPRESENTATIVE OF THE OFFICE OF THE STATE TREASURER;

16 (3) A REPRESENTATIVE OF THE OFFICE OF THE STATE COMPTROLLER;

17 (4) A REPRESENTATIVE OF THE DEPARTMENT OF BUDGET AND FISCAL
18 PLANNING; AND

19 (5) FOUR MEMBERS OF THE PUBLIC WHO SHALL HAVE SIGNIFICANT
20 EXPERIENCE IN FINANCE, ACCOUNTING, INVESTMENT MANAGEMENT, OR OTHER
21 AREAS THAT CAN BE OF ASSISTANCE TO THE BOARD.

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

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

26 (2) THE TERMS OF THE MEMBERS OF THE BOARD ARE STAGGERED AS
27 REQUIRED BY THE TERMS OF THE MEMBERS OF THE BOARD ON OCTOBER 1, 1997.

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

30 (4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES
31 ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND
32 QUALIFIES.

33 (5) A MEMBER IS ELIGIBLE FOR REAPPOINTMENT.

34 (E) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR
35 MISCONDUCT.

5

1 18-2105.

2 (A) THE BOARD, FROM AMONG THE MEMBERS OF THE BOARD, SHALL ELECT
3 A CHAIRMAN AND MAY ELECT ADDITIONAL OFFICERS THAT THE BOARD
4 CONSIDERS NECESSARY.

5 (B) THE BOARD SHALL DETERMINE THE TIMES AND PLACES OF MEETINGS.

6 (C) A MEMBER OF THE BOARD:

7 (1) MAY NOT RECEIVE COMPENSATION;

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

10 (3) SHALL FILE A PUBLIC DISCLOSURE OF FINANCIAL INTERESTS AS
11 REQUIRED UNDER THE MARYLAND PUBLIC ETHICS LAW.

12 (D) (1) THE BOARD:

13 (I) SHALL APPOINT AN EXECUTIVE DIRECTOR WHO IS IN THE
14 UNCLASSIFIED SERVICE OF THE STATE PERSONNEL MANAGEMENT SYSTEM; AND

15 (II) MAY EMPLOY ADDITIONAL STAFF IN ACCORDANCE WITH THE
16 BUDGET.

17 (2) THE BOARD MAY RETAIN THE SERVICES OF CONSULTANTS,
18 ADMINISTRATORS, AND OTHER PERSONNEL, AS NECESSARY, TO ADMINISTER THE
19 PROGRAM.

20 (E) THE BOARD MAY ADOPT ANY REGULATIONS THAT THE BOARD
21 CONSIDERS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

22 (F) IN ADDITION, THE BOARD MAY:

23 (1) ADOPT AN OFFICIAL SEAL;

24 (2) SUE AND BE SUED;

25 (3) EXECUTE CONTRACTS AND OTHER NECESSARY INSTRUMENTS;

26 (4) HOLD, BUY, AND SELL INSTRUMENTS, OBLIGATIONS, SECURITIES,
27 AND OTHER INVESTMENTS CONSISTENT WITH ITS COMPREHENSIVE INVESTMENT
28 PLAN;

29 (5) ENTER INTO AGREEMENTS WITH ELIGIBLE INSTITUTIONS AND
30 OTHER PUBLIC OR PRIVATE ENTITIES FOR THE PROMOTION, ADMINISTRATION, OR
31 MARKETING OF THE PROGRAM;

32 (6) INVEST FUNDS NOT REQUIRED FOR IMMEDIATE DISBURSEMENT;

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

6

1 (8) IMPOSE AND COLLECT REASONABLE ADMINISTRATIVE FEES FOR
2 ANY TRANSACTIONS INVOLVING PREPAID TUITION CONTRACTS OR TRANSACTIONS
3 AFFECTING THE FUND;

4 (9) PROCURE INSURANCE AGAINST ANY LOSS OF ASSETS OF THE FUND;

5 (10) ENDORSE INSURANCE COVERAGE WRITTEN EXCLUSIVELY FOR THE
6 PURPOSE OF PROTECTING A PREPAID TUITION CONTRACT AND THE PURCHASER
7 AND QUALIFIED BENEFICIARY OF THE CONTRACT;

8 (11) DESIGNATE TERMS UNDER WHICH MONEY MAY BE WITHDRAWN
9 FROM THE FUND;

10 (12) ESTABLISH ADDITIONAL PROCEDURAL AND SUBSTANTIVE
11 REQUIREMENTS FOR PARTICIPATION IN AND ADMINISTRATION OR MARKETING OF
12 THE PROGRAM;

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

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

17 18-2106.

18 (A) THE BOARD SHALL ADOPT A COMPREHENSIVE INVESTMENT PLAN FOR
19 THE ADMINISTRATION OF THE FUND.

20 (B) THE PLAN SHALL SPECIFY THE INVESTMENT POLICIES USED BY THE
21 BOARD IN THE ADMINISTRATION OF THE FUND.

22 (C) ASSETS OF THE FUND SHALL BE INVESTED IN ACCORDANCE WITH THE
23 COMPREHENSIVE INVESTMENT PLAN.

24 (D) (1) NOTWITHSTANDING ANY LAW RESTRICTING THE DEPOSIT OR
25 INVESTMENT OF STATE MONEY, THE BOARD MAY PLACE ASSETS OF THE FUND IN
26 SAVINGS ACCOUNTS OR MAY USE THE ASSETS TO PURCHASE FIXED OR VARIABLE
27 LIFE INSURANCE OR ANNUITY CONTRACTS, SECURITIES, EVIDENCE OF
28 INDEBTEDNESS, OR OTHER INVESTMENT PRODUCTS PURSUANT TO THE
29 COMPREHENSIVE INVESTMENT PLAN.

30 (2) ANY INSURANCE, ANNUITY CONTRACTS, SAVINGS, OR OTHER
31 INVESTMENT PRODUCTS PROCURED BY THE BOARD SHALL BE UNDERWRITTEN
32 AND OFFERED IN COMPLIANCE WITH APPLICABLE FEDERAL AND STATE LAWS.

33 (E) THE BOARD SHALL MAKE EVERY EFFORT TO INVEST THE ASSETS OF
34 THE FUND IN A MANNER THAT EARNS, AT A MINIMUM, SUFFICIENT EARNINGS TO
35 GENERATE THE DIFFERENCE BETWEEN THE PREPAID AMOUNT UNDER ADVANCE
36 PURCHASE CONTRACTS AND ACTUAL COSTS AT THE TIME OF ENROLLMENT.

37 (F) THE PLAN SHALL PROVIDE FOR THE FUND TO BE ADMINISTERED IN AN
38 ACTUARIALLY SOUND MANNER TO ASSURE THAT THE BOARD MAY DEFRAY
39 OBLIGATIONS OF THE PROGRAM.

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1 (G) THE BOARD SHALL REVIEW THE COMPREHENSIVE INVESTMENT PLAN AT
2 LEAST ANNUALLY TO ASSURE THAT THE PROGRAM REMAIN ACTUARIALLY SOUND.

3 (H) AFTER EACH ANNUAL REVIEW OF THE COMPREHENSIVE INVESTMENT
4 PLAN FOR ACTUARIAL SOUNDNESS, THE BOARD MAY ADJUST THE TERMS OF
5 SUBSEQUENT PREPAID TUITION CONTACTS TO ENSURE CONTINUED ACTUARIAL
6 SOUNDNESS.

7 (I) THE BOARD MAY CONTRACT WITH AN INVESTMENT ADVISORY OR
8 MANAGEMENT COMPANY FOR THE INVESTMENT AND MANAGEMENT OF THE FUND
9 AS LONG AS THE FUND IS ADMINISTERED IN ACCORDANCE WITH THE
10 COMPREHENSIVE INVESTMENT PLAN.

11 (J) THE BOARD:

12 (1) SHALL PRESERVE, INVEST, AND EXPEND THE ASSETS OF THE FUND
13 SOLELY FOR THE PURPOSES OF THIS SUBTITLE; AND

14 (2) MAY NOT LOAN, TRANSFER, OR USE THE ASSETS FOR ANY OTHER
15 PURPOSE OF THE STATE.

16 (K) THE FUND IS NOT SUBJECT TO § 7-302 OF THE STATE FINANCE AND
17 PROCUREMENT ARTICLE.

18 (L) UNLESS THE BOARD PROVIDES OTHERWISE BY REGULATION, THE
19 BOARD SHALL USE THE PROCEEDS IN THE FUND IN THE FOLLOWING ORDER:

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

22 (2) TO REFUND MONEY ON THE TERMINATION OF ADVANCE PAYMENT
23 CONTRACTS; AND

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

25 18-2107.

26 (A) THE BOARD SHALL ESTABLISH A PROGRAM OF PREPAID TUITION
27 CONTRACTS FOR:

28 (1) TUITION AT COMMUNITY COLLEGES;

29 (2) TUITION AT PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS;
30 AND

31 (3) DORMITORY FEES AT PUBLIC SENIOR HIGHER EDUCATION
32 INSTITUTIONS.

33 (B) THE COST OF A PREPAID TUITION CONTRACT SHALL BE BASED ON:

34 (1) THE AVERAGE CURRENT TUITION COSTS AND DORMITORY FEES AT
35 THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN THE STATE;

8

1 (2) THE NUMBER OF YEARS EXPECTED TO ELAPSE BETWEEN THE
2 PURCHASE OF A PREPAID TUITION CONTRACT AND THE USE OF THE BENEFITS OF
3 THE CONTRACT; AND

4 (3) THE PROJECTED TUITION COSTS AND DORMITORY FEES AT THE
5 TIME THAT THE BENEFITS WILL BE EXERCISED.

6 (C) EACH PREPAID TUITION CONTRACT MADE UNDER THE PROVISIONS OF
7 THIS SUBTITLE SHALL INCLUDE THE FOLLOWING PROVISIONS:

8 (1) THE AMOUNT OF EACH PAYMENT AND THE NUMBER OF PAYMENTS
9 REQUIRED FROM A PURCHASER;

10 (2) THE TERMS AND CONDITIONS UNDER WHICH PURCHASERS SHALL
11 REMIT PAYMENTS, INCLUDING THE DATES OF THE PAYMENTS;

12 (3) PROVISIONS FOR LATE PAYMENT CHARGES AND DEFAULTS;

13 (4) PENALTIES FOR EARLY WITHDRAWAL FROM THE FUND;

14 (5) THE NAME AND DATE OF BIRTH OF THE QUALIFIED BENEFICIARY
15 ON WHOSE BEHALF THE CONTRACT IS MADE;

16 (6) TERMS AND CONDITIONS FOR A SUBSTITUTION FOR THE QUALIFIED
17 BENEFICIARY ORIGINALLY NAMED;

18 (7) TERMS AND CONDITIONS FOR THE TERMINATION OF THE
19 CONTRACT;

20 (8) THE TIME PERIOD DURING WHICH THE QUALIFIED BENEFICIARY
21 MAY CLAIM BENEFITS FROM THE FUND;

22 (9) THE NUMBER OF UNDERGRADUATE SEMESTER HOURS OR TERMS
23 THAT ARE PREPAID UNDER THE CONTRACT;

24 (10) THE NAME OF THE INSTITUTION AT WHICH BENEFITS MAY BE PAID;

25 (11) ALL OTHER RIGHTS AND OBLIGATIONS OF THE PURCHASER AND
26 THE FUND; AND

27 (12) ANY OTHER TERMS AND CONDITIONS THAT THE BOARD CONSIDERS
28 NECESSARY OR APPROPRIATE.

29 (D) THE BOARD:

30 (1) MAY PROVIDE PREPAID TUITION CONTRACTS FOR PARTIAL FUTURE
31 EDUCATION COSTS; AND

32 (2) SHALL ALLOW THE CONVERSION OF AN ADVANCE PAYMENT
33 CONTRACT PLAN FROM AN ELIGIBLE INSTITUTION TO ANOTHER ELIGIBLE
34 INSTITUTION.

35 18-2108.

36 (A) (1) THE BOARD SHALL ISSUE REFUNDS AS SPECIFIED IN THIS SECTION.

9

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

4 (B) A REFUND OF THE AMOUNT PAID UNDER A PREPAID TUITION CONTRACT,
5 MINUS ANY AMOUNT PAID OUT OF THE FUND ON BEHALF OF THE QUALIFIED
6 BENEFICIARY, SHALL BE MADE WITH INTEREST AT A RATE SET BY THE BOARD IF
7 THE BENEFICIARY:

8 (1) IS AWARDED A SCHOLARSHIP THAT COVERS BENEFITS PROVIDED
9 UNDER THE PREPAID TUITION CONTRACT; OR

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

11 (C) (1) A PREPAID TUITION CONTRACT MAY PROVIDE THAT THE
12 CONTRACT IS TERMINATED WITHOUT ANY REFUND IF:

13 (I) BENEFITS ARE NOT EXERCISED UNDER THE CONTRACT
14 WITHIN A TIME SPECIFIED IN THE CONTRACT; AND

15 (II) THE CONTRACT IS NOT CANCELED.

16 (2) TIME THAT A QUALIFIED BENEFICIARY SPENDS IN ACTIVE DUTY AS
17 A MEMBER OF THE UNITED STATES ARMED FORCES SHALL BE ADDED TO THE TIME
18 PERIOD ALLOWED TO EXERCISE THE BENEFITS UNDER A PREPAID TUITION
19 CONTRACT BEFORE A TERMINATION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

20 18-2109.

21 THE BOARD, FUND, AND PREPAID TUITION CONTRACTS ISSUED UNDER THIS
22 SUBTITLE ARE NOT SUBJECT TO THE PROVISIONS OF THE INSURANCE ARTICLE.

23 18-2110.

24 THE ASSETS AND INCOME OF THE FUND ARE EXEMPT FROM STATE AND LOCAL
25 TAXATION.

26 18-2111.

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

30 18-2112.

31 NOTHING IN THIS SUBTITLE NOR IN ANY PREPAID TUITION CONTRACT MAY BE
32 CONSTRUED AS A PROMISE OR GUARANTEE BY THE BOARD OF ADMISSION TO,
33 CONTINUED ENROLLMENT AT, OR GRADUATION FROM A PUBLIC INSTITUTION OF
34 HIGHER EDUCATION IN THE STATE.

35 18-2113.

36 THE STATE AND ITS AGENCIES OR ANY LOCAL GOVERNMENT IN THE STATE
37 MAY AGREE, BY CONTRACT OR OTHERWISE, TO REMIT PAYMENTS ON BEHALF ON

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1 AN EMPLOYEE TOWARD A PREPAID TUITION CONTRACT THROUGH PAYROLL
2 DEDUCTIONS.

3 18-2114.

4 (A) (1) THE LEGISLATIVE AUDITOR SHALL AUDIT THE FUND ANNUALLY.

5 (2) THE BOARD SHALL PAY FOR THE AUDIT.

6 (B) (1) WITHIN 90 DAYS AFTER THE CLOSE OF EACH FISCAL YEAR, THE
7 BOARD SHALL SUBMIT TO THE GOVERNOR, AND, SUBJECT TO § 2-1312 OF THE STATE
8 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY, A REPORT INCLUDING:

9 (I) THE LEGISLATIVE AUDIT;

10 (II) A FINANCIAL ACCOUNTING OF THE FUND, INCLUDING THE
11 ANNUAL REVIEW OF THE COMPREHENSIVE INVESTMENT PLAN;

12 (III) THE NUMBER OF PREPAID TUITION CONTRACTS ENTERED
13 INTO DURING THE PREVIOUS FISCAL YEAR;

14 (IV) EFFORTS BY THE BOARD IN MARKETING THE PROGRAM OF
15 PREPAID TUITION CONTRACTS; AND

16 (V) ANY RECOMMENDATIONS OF THE BOARD CONCERNING THE
17 OPERATION OF THE FUND.

18 (2) THE BOARD SHALL MAKE AVAILABLE TO EACH PURCHASER A COPY
19 OF A SUMMARY OF THE REPORT AND THE OPTION TO PURCHASE THE FULL REPORT
20 AT A NOMINAL CHARGE.

21 (C) (1) IF THE ANNUAL AUDIT AND ACCOUNTING REQUIRED UNDER THIS
22 SUBTITLE REVEAL THAT THERE ARE INSUFFICIENT FUNDS, THE STATE SHALL MEET
23 THE OBLIGATIONS OF THE BOARD TO THE QUALIFIED BENEFICIARIES.

24 (2) THE GOVERNOR SHALL INCLUDE IN THE STATE BUDGET AN
25 APPROPRIATION FROM THE GENERAL FUND TO MEET THE OBLIGATIONS OF THE
26 BOARD UNDER PREPAID TUITION CONTRACTS.

27 (D) (1) IF THE GENERAL ASSEMBLY DISCONTINUES THE PROGRAM, A
28 QUALIFIED BENEFICIARY WHO HAS BEEN ACCEPTED BY AN ELIGIBLE INSTITUTION
29 OR WHO IS WITHIN 5 YEARS OF ENROLLMENT AT AN ELIGIBLE INSTITUTION IS
30 ENTITLED TO EXERCISE THE BENEFITS IN ACCORDANCE WITH THE PREPAID
31 TUITION CONTRACT.

32 (2) OTHER CONTRACT HOLDERS SHALL RECEIVE A REFUND IN
33 ACCORDANCE WITH THE PREPAID TUITION CONTRACT PLUS INTEREST AT A RATE
34 DETERMINED BY THE BOARD.

35 **Article - State Government**

36 10-616.

37 (M) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A CUSTODIAN
38 SHALL DENY INSPECTION OF ANY RECORD DISCLOSING THE NAME OF A

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11

1 PURCHASER OR QUALIFIED BENEFICIARY OF A PREPAID TUITION CONTRACT
2 UNDER TITLE 18, SUBTITLE 21 OF THE EDUCATION ARTICLE.

3 (2) A CUSTODIAN:

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

5 (II) MAY RELEASE INFORMATION TO AN ELIGIBLE INSTITUTION
6 DESIGNATED IN A PREPAID TUITION CONTRACT IN ACCORDANCE WITH
7 REGULATIONS OF THE MARYLAND HIGHER EDUCATION TUITION TRUST FUND
8 BOARD.

9 SECTION 2. AND BE IT FURTHER ENACTED, That, for Fiscal Year 1998, the
10 Governor shall include in the State budget an appropriation for the Maryland Higher
11 Education Commission for the administrative and start-up costs for the Maryland Higher
12 Education Tuition Trust Fund.

13 SECTION 3. AND BE IT FURTHER ENACTED, That the terms of the initial
14 members of the Maryland Higher Education Tuition Trust Fund Board shall expire as
15 follows:

16 (1) two members in 1999;

17 (2) two members in 2000;

18 (3) two members in 2001; and

19 (4) three members in 2002.

20 SECTION 4. AND BE IT FURTHER ENACTED, That, before entering a prepaid
21 tuition contract, the Maryland Higher Education Tuition Trust Fund Board shall solicit
22 opinion letters from:

23 (1) the United States Internal Revenue Service, concerning the tax status of
24 fees paid pursuant to a prepaid tuition contract; and

25 (2) the United States Securities Exchange Commission, concerning the
26 application of federal security laws to the Maryland Higher Education Tuition Trust
27 Fund.

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