

(PRE-FILED)

By: ~~Senator Kasemeyer~~ Senators Kasemeyer, Boozer, Cade, Currie, Hoffman, Hogan, Lawlah, Middleton, Munson, Ruben, and Van Hollen

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Assigned to: Budget and Taxation and Economic and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 1996

CHAPTER ____

1 AN ACT concerning

2 **Maryland Higher Education ~~Tuition Trust Fund~~ - Prepaid Tuition Savings Program**

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~~

2

1 ~~tuition at the public institutions of higher education in the State.~~

2 FOR the purpose of establishing a Maryland Prepaid Tuition Savings Program;
 3 establishing a Task Force on the Maryland Prepaid Tuition Savings Program;
 4 specifying the membership, duties, and staffing of the Task Force; requiring the
 5 Task Force to issue a certain report by a certain date; providing for the effective
 6 date of this Act; requiring the Governor to include a certain appropriation in a
 7 certain year; providing for the termination of a certain section of this Act; and
 8 generally relating to the Task Force on the Maryland Prepaid Tuition Savings
 9 Program.

10 ~~BY repealing and reenacting, with amendments,~~
 11 ~~Article—Education~~
 12 ~~Section 11-105(h)(1)~~
 13 ~~Annotated Code of Maryland~~
 14 ~~(1992 Replacement Volume and 1995 Supplement)~~

15 ~~BY adding to~~
 16 ~~Article—Education~~
 17 ~~Section 18-2101 through 18-2114, inclusive, to be under the new subtitle "Subtitle~~
 18 ~~21. Maryland Higher Education Tuition Trust Fund"~~
 19 ~~Annotated Code of Maryland~~
 20 ~~(1992 Replacement Volume and 1995 Supplement)~~

21 ~~BY adding to~~
 22 ~~Article—State Government~~
 23 ~~Section 10-616(m)~~
 24 ~~Annotated Code of Maryland~~
 25 ~~(1995 Replacement Volume)~~

26 BY adding to
 27 Article - Education
 28 Section 18-2101 to be under the new subtitle "Subtitle 21. Maryland Prepaid
 29 Tuition Program"
 30 Annotated Code of Maryland
 31 (1992 Replacement Volume and 1995 Supplement)

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

34 ~~**Article—Education**~~

35 ~~11-105.~~

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

3

- 1 (i) ~~The Board of Regents of the University of Maryland System;~~
- 2 (ii) ~~The Board of Regents of Morgan State University;~~
- 3 (iii) ~~The Board of Trustees of St. Mary's College of Maryland;~~
- 4 (iv) ~~The Maryland Higher Education Loan Corporation;~~
- 5 (v) ~~The State Advisory Council for Title I of the Higher Education Act~~
- 6 ~~of 1965; [and]~~

- 7 (vi) ~~The Board of Trustees of Baltimore City Community College;~~
- 8 ~~AND~~

9 (VII) ~~THE BOARD OF THE MARYLAND HIGHER EDUCATION~~
10 ~~TUITION TRUST FUND.~~

11 ~~SUBTITLE 21. MARYLAND HIGHER EDUCATION TUITION TRUST FUND.~~

12 ~~48-2101.~~

13 (A) ~~IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS~~
14 ~~INDICATED.~~

15 (B) ~~"BOARD" MEANS THE BOARD OF THE MARYLAND HIGHER EDUCATION~~
16 ~~TUITION TRUST FUND.~~

17 (C) ~~"FUND" MEANS THE MARYLAND HIGHER EDUCATION TUITION TRUST~~
18 ~~FUND.~~

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

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

28 (F) ~~"QUALIFIED BENEFICIARY" MEANS AN INDIVIDUAL WHO IS ELIGIBLE TO~~
29 ~~APPLY ADVANCE TUITION PAYMENTS TO UNDERGRADUATE TUITION AT A PUBLIC~~
30 ~~INSTITUTION OF HIGHER EDUCATION IN THE STATE UNDER THE PROVISIONS OF~~
31 ~~THIS SUBTITLE AND WHO IS:~~

32 (1) ~~A RESIDENT OF THE STATE AT THE TIME THAT THE PURCHASER~~
33 ~~ENTERS INTO A PREPAID TUITION CONTRACT; OR~~

34 (2) ~~A NONRESIDENT OF THE STATE WHO IS THE CHILD OF A~~
35 ~~NONCUSTODIAL PARENT WHO IS A RESIDENT OF THE STATE AT THE TIME THAT THE~~
36 ~~PARENT BECOMES A PURCHASER OF A PREPAID TUITION CONTRACT.~~

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

5 ~~48-2102.~~

6 ~~IT IS THE INTENT OF THE GENERAL ASSEMBLY TO ENHANCE THE~~
7 ~~ACCESSIBILITY AND AFFORDABILITY OF HIGHER EDUCATION FOR ALL CITIZENS OF~~
8 ~~THE STATE BY ESTABLISHING A METHOD TO PROVIDE FOR THE PREPAYMENT OF~~
9 ~~TUITION AT THE PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN THE STATE.~~

10 ~~48-2103.~~

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

12 ~~(B) THE PURPOSE OF THE FUND IS TO PROVIDE:~~

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

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

20 ~~(C) THE FUND CONSISTS OF:~~

21 ~~(1) PAYMENTS RECEIVED FROM PREPAID TUITION CONTRACTS MADE~~
22 ~~UNDER THE PROVISIONS OF THIS SUBTITLE;~~

23 ~~(2) BEQUESTS, ENDOWMENTS, OR FUNDS FROM ANY OTHER~~
24 ~~AVAILABLE PRIVATE SOURCE;~~

25 ~~(3) INTEREST AND INCOME EARNED FROM THE INVESTMENTS OF THE~~
26 ~~FUND; AND~~

27 ~~(4) FEDERAL, STATE, OR LOCAL FUNDS, OR FUNDS FROM ANY OTHER~~
28 ~~AVAILABLE PUBLIC SOURCE.~~

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

31 ~~48-2104.~~

32 ~~(A) THERE IS A MARYLAND HIGHER EDUCATION TUITION TRUST FUND~~
33 ~~BOARD.~~

34 ~~(B) THE BOARD CONSISTS OF THE FOLLOWING NINE MEMBERS, APPOINTED~~
35 ~~BY THE GOVERNOR:~~

36 ~~(1) TWO REPRESENTATIVES OF THE HIGHER EDUCATION COMMISSION;~~

37 ~~(2) A REPRESENTATIVE OF THE OFFICE OF THE STATE TREASURER;~~

1 ~~(3) A REPRESENTATIVE OF THE OFFICE OF THE STATE COMPTROLLER;~~

2 ~~(4) A REPRESENTATIVE OF THE DEPARTMENT OF BUDGET AND FISCAL~~
 3 ~~PLANNING; AND~~

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

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

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

11 ~~(2) THE TERMS OF THE MEMBERS OF THE BOARD ARE STAGGERED AS~~
 12 ~~REQUIRED BY THE TERMS OF THE MEMBERS OF THE BOARD ON OCTOBER 1, 1997.~~

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

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

18 ~~(5) A MEMBER IS ELIGIBLE FOR REAPPOINTMENT.~~

19 ~~(E) THE GOVERNOR MAY REMOVE A MEMBER FOR INCOMPETENCE OR~~
 20 ~~MISCONDUCT.~~

21 ~~48-2105.~~

22 ~~(A) THE BOARD, FROM AMONG THE MEMBERS OF THE BOARD, SHALL ELECT~~
 23 ~~A CHAIRMAN AND MAY ELECT ADDITIONAL OFFICERS THAT THE BOARD~~
 24 ~~CONSIDERS NECESSARY.~~

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

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

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

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

30 ~~(3) SHALL FILE A PUBLIC DISCLOSURE OF FINANCIAL INTERESTS AS~~
 31 ~~REQUIRED UNDER THE MARYLAND PUBLIC ETHICS LAW.~~

32 ~~(D) (1) THE BOARD:~~

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

35 ~~(II) MAY EMPLOY ADDITIONAL STAFF IN ACCORDANCE WITH THE~~
 36 ~~BUDGET.~~

1 ~~(2) THE BOARD MAY RETAIN THE SERVICES OF CONSULTANTS,~~
2 ~~ADMINISTRATORS, AND OTHER PERSONNEL, AS NECESSARY, TO ADMINISTER THE~~
3 ~~PROGRAM.~~

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

6 ~~(F) IN ADDITION, THE BOARD MAY:~~

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

8 ~~(2) SUE AND BE SUED;~~

9 ~~(3) EXECUTE CONTRACTS AND OTHER NECESSARY INSTRUMENTS;~~

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

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

16 ~~(6) INVEST FUNDS NOT REQUIRED FOR IMMEDIATE DISBURSEMENT;~~

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

20 ~~(8) IMPOSE AND COLLECT REASONABLE ADMINISTRATIVE FEES FOR~~
21 ~~ANY TRANSACTIONS INVOLVING PREPAID TUITION CONTRACTS OR TRANSACTIONS~~
22 ~~AFFECTING THE FUND;~~

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

24 ~~(10) ENDORSE INSURANCE COVERAGE WRITTEN EXCLUSIVELY FOR THE~~
25 ~~PURPOSE OF PROTECTING A PREPAID TUITION CONTRACT AND THE PURCHASER~~
26 ~~AND QUALIFIED BENEFICIARY OF THE CONTRACT;~~

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

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

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

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

1 ~~18-2106.~~

2 ~~(A) THE BOARD SHALL ADOPT A COMPREHENSIVE INVESTMENT PLAN FOR~~
3 ~~THE ADMINISTRATION OF THE FUND.~~

4 ~~(B) THE PLAN SHALL SPECIFY THE INVESTMENT POLICIES USED BY THE~~
5 ~~BOARD IN THE ADMINISTRATION OF THE FUND.~~

6 ~~(C) ASSETS OF THE FUND SHALL BE INVESTED IN ACCORDANCE WITH THE~~
7 ~~COMPREHENSIVE INVESTMENT PLAN.~~

8 ~~(D) (1) NOTWITHSTANDING ANY LAW RESTRICTING THE DEPOSIT OR~~
9 ~~INVESTMENT OF STATE MONEY, THE BOARD MAY PLACE ASSETS OF THE FUND IN~~
10 ~~SAVINGS ACCOUNTS OR MAY USE THE ASSETS TO PURCHASE FIXED OR VARIABLE~~
11 ~~LIFE INSURANCE OR ANNUITY CONTRACTS, SECURITIES, EVIDENCE OF~~
12 ~~INDEBTEDNESS, OR OTHER INVESTMENT PRODUCTS PURSUANT TO THE~~
13 ~~COMPREHENSIVE INVESTMENT PLAN.~~

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

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

21 ~~(F) THE PLAN SHALL PROVIDE FOR THE FUND TO BE ADMINISTERED IN AN~~
22 ~~ACTUARIALLY SOUND MANNER TO ASSURE THAT THE BOARD MAY DEFRAY~~
23 ~~OBLIGATIONS OF THE PROGRAM.~~

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

26 ~~(H) AFTER EACH ANNUAL REVIEW OF THE COMPREHENSIVE INVESTMENT~~
27 ~~PLAN FOR ACTUARIAL SOUNDNESS, THE BOARD MAY ADJUST THE TERMS OF~~
28 ~~SUBSEQUENT PREPAID TUITION CONTRACTS TO ENSURE CONTINUED ACTUARIAL~~
29 ~~SOUNDNESS.~~

30 ~~(I) THE BOARD MAY CONTRACT WITH AN INVESTMENT ADVISORY OR~~
31 ~~MANAGEMENT COMPANY FOR THE INVESTMENT AND MANAGEMENT OF THE FUND~~
32 ~~AS LONG AS THE FUND IS ADMINISTERED IN ACCORDANCE WITH THE~~
33 ~~COMPREHENSIVE INVESTMENT PLAN.~~

34 ~~(J) THE BOARD:~~

35 ~~(1) SHALL PRESERVE, INVEST, AND EXPEND THE ASSETS OF THE FUND~~
36 ~~SOLELY FOR THE PURPOSES OF THIS SUBTITLE; AND~~

37 ~~(2) MAY NOT LOAN, TRANSFER, OR USE THE ASSETS FOR ANY OTHER~~
38 ~~PURPOSE OF THE STATE.~~

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

3 ~~(L) UNLESS THE BOARD PROVIDES OTHERWISE BY REGULATION, THE~~
4 ~~BOARD SHALL USE THE PROCEEDS IN THE FUND IN THE FOLLOWING ORDER:~~

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

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

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

10 ~~48-2107.~~

11 ~~(A) THE BOARD SHALL ESTABLISH A PROGRAM OF PREPAID TUITION~~
12 ~~CONTRACTS FOR:~~

13 ~~(1) TUITION AT COMMUNITY COLLEGES;~~

14 ~~(2) TUITION AT PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS;~~
15 ~~AND~~

16 ~~(3) DORMITORY FEES AT PUBLIC SENIOR HIGHER EDUCATION~~
17 ~~INSTITUTIONS.~~

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

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

21 ~~(2) THE NUMBER OF YEARS EXPECTED TO ELAPSE BETWEEN THE~~
22 ~~PURCHASE OF A PREPAID TUITION CONTRACT AND THE USE OF THE BENEFITS OF~~
23 ~~THE CONTRACT; AND~~

24 ~~(3) THE PROJECTED TUITION COSTS AND DORMITORY FEES AT THE~~
25 ~~TIME THAT THE BENEFITS WILL BE EXERCISED.~~

26 ~~(C) EACH PREPAID TUITION CONTRACT MADE UNDER THE PROVISIONS OF~~
27 ~~THIS SUBTITLE SHALL INCLUDE THE FOLLOWING PROVISIONS:~~

28 ~~(1) THE AMOUNT OF EACH PAYMENT AND THE NUMBER OF PAYMENTS~~
29 ~~REQUIRED FROM A PURCHASER;~~

30 ~~(2) THE TERMS AND CONDITIONS UNDER WHICH PURCHASERS SHALL~~
31 ~~REMIT PAYMENTS, INCLUDING THE DATES OF THE PAYMENTS;~~

32 ~~(3) PROVISIONS FOR LATE PAYMENT CHARGES AND DEFAULTS;~~

33 ~~(4) PENALTIES FOR EARLY WITHDRAWAL FROM THE FUND;~~

34 ~~(5) THE NAME AND DATE OF BIRTH OF THE QUALIFIED BENEFICIARY~~
35 ~~ON WHOSE BEHALF THE CONTRACT IS MADE;~~

1 ~~(6) TERMS AND CONDITIONS FOR A SUBSTITUTION FOR THE QUALIFIED~~
2 ~~BENEFICIARY ORIGINALLY NAMED;~~

3 ~~(7) TERMS AND CONDITIONS FOR THE TERMINATION OF THE~~
4 ~~CONTRACT;~~

5 ~~(8) THE TIME PERIOD DURING WHICH THE QUALIFIED BENEFICIARY~~
6 ~~MAY CLAIM BENEFITS FROM THE FUND;~~

7 ~~(9) THE NUMBER OF UNDERGRADUATE SEMESTER HOURS OR TERMS~~
8 ~~THAT ARE PREPAID UNDER THE CONTRACT;~~

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

10 ~~(11) ALL OTHER RIGHTS AND OBLIGATIONS OF THE PURCHASER AND~~
11 ~~THE FUND; AND~~

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

14 ~~(D) THE BOARD:~~

15 ~~(1) MAY PROVIDE PREPAID TUITION CONTRACTS FOR PARTIAL FUTURE~~
16 ~~EDUCATION COSTS; AND~~

17 ~~(2) SHALL ALLOW THE CONVERSION OF AN ADVANCE PAYMENT~~
18 ~~CONTRACT PLAN FROM AN ELIGIBLE INSTITUTION TO ANOTHER ELIGIBLE~~
19 ~~INSTITUTION.~~

20 ~~48-2108.~~

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

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

25 ~~(B) A REFUND OF THE AMOUNT PAID UNDER A PREPAID TUITION CONTRACT,~~
26 ~~MINUS ANY AMOUNT PAID OUT OF THE FUND ON BEHALF OF THE QUALIFIED~~
27 ~~BENEFICIARY, SHALL BE MADE WITH INTEREST AT A RATE SET BY THE BOARD IF~~
28 ~~THE BENEFICIARY:~~

29 ~~(1) IS AWARDED A SCHOLARSHIP THAT COVERS BENEFITS PROVIDED~~
30 ~~UNDER THE PREPAID TUITION CONTRACT; OR~~

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

32 ~~(C) (1) A PREPAID TUITION CONTRACT MAY PROVIDE THAT THE~~
33 ~~CONTRACT IS TERMINATED WITHOUT ANY REFUND IF:~~

34 ~~(i) BENEFITS ARE NOT EXERCISED UNDER THE CONTRACT~~
35 ~~WITHIN A TIME SPECIFIED IN THE CONTRACT; AND~~

36 ~~(ii) THE CONTRACT IS NOT CANCELED.~~

10

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

5 ~~48-2109.~~

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

8 ~~48-2110.~~

9 ~~THE ASSETS AND INCOME OF THE FUND ARE EXEMPT FROM STATE AND LOCAL~~
10 ~~TAXATION.~~

11 ~~48-2111.~~

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

15 ~~48-2112.~~

16 ~~NOTHING IN THIS SUBTITLE NOR IN ANY PREPAID TUITION CONTRACT MAY BE~~
17 ~~CONSTRUED AS A PROMISE OR GUARANTEE BY THE BOARD OF ADMISSION TO,~~
18 ~~CONTINUED ENROLLMENT AT, OR GRADUATION FROM A PUBLIC INSTITUTION OF~~
19 ~~HIGHER EDUCATION IN THE STATE.~~

20 ~~48-2113.~~

21 ~~THE STATE AND ITS AGENCIES OR ANY LOCAL GOVERNMENT IN THE STATE~~
22 ~~MAY AGREE, BY CONTRACT OR OTHERWISE, TO REMIT PAYMENTS ON BEHALF ON~~
23 ~~AN EMPLOYEE TOWARD A PREPAID TUITION CONTRACT THROUGH PAYROLL~~
24 ~~DEDUCTIONS.~~

25 ~~48-2114.~~

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

27 ~~(2) THE BOARD SHALL PAY FOR THE AUDIT.~~

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

31 ~~(I) THE LEGISLATIVE AUDIT;~~

32 ~~(II) A FINANCIAL ACCOUNTING OF THE FUND, INCLUDING THE~~
33 ~~ANNUAL REVIEW OF THE COMPREHENSIVE INVESTMENT PLAN;~~

34 ~~(III) THE NUMBER OF PREPAID TUITION CONTRACTS ENTERED~~
35 ~~INTO DURING THE PREVIOUS FISCAL YEAR;~~

36 ~~(IV) EFFORTS BY THE BOARD IN MARKETING THE PROGRAM OF~~
37 ~~PREPAID TUITION CONTRACTS; AND~~

11

1 (V) ANY RECOMMENDATIONS OF THE BOARD CONCERNING THE
2 OPERATION OF THE FUND.

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

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

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

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

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

20 **Article—State Government**

21 40-616.

22 (M) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A CUSTODIAN
23 SHALL DENY INSPECTION OF ANY RECORD DISCLOSING THE NAME OF A
24 PURCHASER OR QUALIFIED BENEFICIARY OF A PREPAID TUITION CONTRACT
25 UNDER TITLE 18, SUBTITLE 21 OF THE EDUCATION ARTICLE.

26 (2) A CUSTODIAN:

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

28 (H) MAY RELEASE INFORMATION TO AN ELIGIBLE INSTITUTION
29 DESIGNATED IN A PREPAID TUITION CONTRACT IN ACCORDANCE WITH
30 REGULATIONS OF THE MARYLAND HIGHER EDUCATION TUITION TRUST FUND
31 BOARD.

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

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

39 (1) two members in 1999;

12

1 ~~(2) two members in 2000;~~

2 ~~(3) two members in 2001; and~~

3 ~~(4) three members in 2002.~~

4 ~~SECTION 4. AND BE IT FURTHER ENACTED, That, before entering a prepaid~~
 5 ~~tuition contract, the Maryland Higher Education Tuition Trust Fund 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 a prepaid tuition contract; and~~

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

12 Preamble

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

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

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

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

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

24 **Article - Education**

25 SUBTITLE 21. MARYLAND PREPAID TUITION PROGRAM

26 18-2101.

27 (A) THERE IS A MARYLAND PREPAID TUITION SAVINGS PROGRAM, FOR THE
 28 PURPOSE OF ALLOWING FOR THE ADVANCE PAYMENT OF UNDERGRADUATE
 29 TUITION AT HIGHER EDUCATION INSTITUTIONS IN THE STATE.

30 (B) A TASK FORCE ON THE MARYLAND PREPAID TUITION SAVINGS PROGRAM
 31 SHALL DEVELOP AN IMPLEMENTATION PLAN FOR THE PROGRAM.

32 SECTION 2. AND BE IT FURTHER ENACTED, That:

33 (a) A Task Force on the Maryland Prepaid Tuition Savings Program shall be
 34 established for the purpose of developing an implementation plan for a prepaid tuition
 35 savings program in Maryland.

13

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

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

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

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

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

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

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

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

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

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

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

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

24 (f) The Task Force shall:

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

28 (2) Study a variety of issues relating to the Maryland Prepaid Tuition
29 Savings Program, including whether the program should offer a guarantee, whether the
30 program should be self-supporting and off-budget, and what the structure of the program
31 should be;

32 (3) Consider membership of the board that will oversee the program and the
33 duties of that board;

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

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

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

14

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

3 (g) (1) The Task Force shall make its final report on or before December 1,
4 1996 to the Governor, the Senate Budget and Taxation Committee, the Senate Economic
5 and Environmental Affairs Committee, the House Appropriations Committee, and the
6 House Ways and Means Committee of the General Assembly.

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

9 SECTION 3. AND BE IT FURTHER ENACTED, That it is the intent of the
10 General Assembly that the Governor include an appropriation in the Fiscal Year 1998
11 budget based on the recommendations of the Task Force report.

12 SECTION 5- 4. AND BE IT FURTHER ENACTED, That this Act shall take
13 effect ~~October~~ June 1, 1996. Section 2 of this Act shall remain effective for a period of 1
14 year and, at the end of May 31, 1997, with no further action required by the General
15 Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.