

ASSEMBLY, No. 2372

STATE OF NEW JERSEY

INTRODUCED SEPTEMBER 26, 1996

By Assemblymen HOLZAPFEL and WOLFE

1 AN ACT establishing a Prepaid Higher Education Expense Program
2 and supplementing Title 18A of the New Jersey Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. This act shall be known and may be cited as the "New Jersey
8 Prepaid Higher Education Expense Program Act of 1996."

9

10 2. The Legislature finds and declares: that educational opportunity
11 at the college and university level is a critical State interest which is
12 linked to the needs of the State to ensure a well-educated work force;
13 that educational opportunity is best ensured through the provision of
14 institutions of higher education which are geographically and
15 financially accessible; that it is in the best interests of this State to
16 adopt and foster mechanisms which will encourage its citizens to
17 engage in the timely financial planning which is necessary to guarantee
18 that students will have the financial resources necessary to pursue a
19 higher education given the annually escalating level of resources which
20 such attendance requires; and that one such mechanism which has
21 proven successful in some other states is the establishment of a
22 program through which many of the costs associated with attendance
23 at institutions of higher education may be paid in advance and fixed
24 at a guaranteed level for the duration of undergraduate enrollment.

25

26 3. As used in this act:

27 "Advance payment contract" means a contract entered into by the
28 board and a purchaser pursuant to the provisions of this act;

29 "Board" means the Prepaid Higher Education Expense Board
30 established pursuant to section 7 of this act.

31 "Fund" means the Prepaid Higher Education Expense Trust Fund
32 established pursuant to section 5 of this act.

33 "Independent institution of higher education" means those
34 institutions of higher education incorporated and located in this State,
35 which, by virtue of law or character or license, are nonprofit
36 educational institutions empowered to grant academic degrees and
37 which provide a level of education which is equivalent to the education

1 provided by the State's public institutions of higher education as
2 attested by the receipt of and continuation of regional accreditation by
3 the Middle States Association of Colleges and Schools, and which are
4 eligible to receive State aid under the provisions of the Constitution of
5 the United States and the Constitution of the State of New Jersey.
6 "Independent institution of higher education" does not include any
7 educational institution dedicated primarily to the preparation or
8 training of ministers, priests, rabbis, or other professional persons in
9 the field of religion.

10 "Purchaser" means a person who makes or is obligated to make
11 payments in accordance with an advance payment contract.

12 "Qualified beneficiary" means:

13 a. a resident of this State at the time a purchaser enters into an
14 advance payment contract on behalf of the resident; or

15 b. a nonresident who is the child of a noncustodial parent who is
16 a resident of the State at the time that the parent enters into an
17 advance payment contract on behalf of the child.

18 "Public institution of higher education" means Rutgers, The State
19 University, the State colleges or universities established pursuant to
20 chapter 64 of Title 18A of the New Jersey Statutes, the New Jersey
21 Institute of Technology, the University of Medicine and Dentistry of
22 New Jersey, the county colleges and any other public university or
23 college now or hereafter established or authorized by State law.

24 "Program" means the New Jersey Prepaid Higher Education
25 Expense Program established pursuant to section 4 of this act.

26 "Registration fees" means any fees imposed by an institution of
27 higher education, in addition to tuition, required for matriculation at
28 the institution.

29

30 4. There is established the New Jersey Prepaid Higher Education
31 Expense Program to provide a mechanism through which the cost of
32 tuition, registration fees, and dormitory residence may be paid in
33 advance of enrollment in a public institution of higher education at a
34 rate lower than the projected corresponding cost at the time of actual
35 enrollment. Under the program, moneys remitted in accordance with
36 advance payment contracts shall be combined and invested in a
37 manner that yields, at a minimum, sufficient interest to generate the
38 difference between the prepaid amount and the cost of tuition,
39 registration fees, and dormitory residence at the time of actual
40 enrollment. A student who enrolls in a public institution of higher
41 education pursuant to this act shall not be charged any fees in excess
42 of the terms set forth in the advance payment contract.

43

44 5. There is created within the Department of the Treasury the
45 Prepaid Higher Education Expense Trust Fund. The fund shall consist
46 of State appropriations, moneys acquired from other governmental or

1 private sources, and moneys remitted in accordance with advance
2 payment contracts. Dividends, interest, and gains accruing to the
3 fund shall increase the total funds available for the program. Any
4 funds associated with contracts terminated pursuant to section 15 of
5 this act or with canceled contracts for which refunds have not been
6 claimed shall increase the total funds available for the program.
7 However, the board shall establish procedures for notifying purchasers
8 who cancel a contract of any unclaimed refund and shall establish a
9 time period after which a refund may not be claimed.

10 Any balance contained in the fund at the end of a fiscal year shall
11 remain therein and shall be available for carrying out the purposes of
12 the program.

13

14 6. The assets of the fund shall be maintained, invested, and
15 expended solely for the purposes of this act and shall not be loaned,
16 transferred, or otherwise used by the State for any purpose other than
17 the purposes of this act. This section shall not be construed to
18 prohibit the board from investing in, by purchase or otherwise, bonds,
19 notes, or other obligations of the State or an agency or instrumentality
20 of the State. Unless otherwise specified by the board, assets of the
21 fund shall be expended in the following order of priority:

22 a. to make payments to institutions of higher education on behalf of
23 qualified beneficiaries;

24 b. to make refunds upon cancellation of advance payment contracts;
25 and

26 c. to pay the costs of program administration and operations.

27

28 7. a. The program shall be administered by the Prepaid Higher
29 Education Expense Board. The board is established as a body
30 corporate and politic in the Executive Branch of State Government
31 and for the purposes of complying with the provisions of Article V,
32 Section IV, paragraph 1 of the New Jersey Constitution, the board is
33 allocated in but not of the Department of the Treasury, but
34 notwithstanding this allocation, the board shall be independent of any
35 supervision or control by the department or by any board or officer
36 thereof.

37 b. The board shall consist of seven members including the State
38 Treasurer, the chairman of the Commission on Higher Education, and
39 five members appointed by the Governor with the advice and consent
40 of the Senate without regard for political affiliation. Each member
41 appointed by the Governor shall possess knowledge, skill, and
42 experience in the areas of accounting, actuary, risk management, or
43 investment management. The State Treasurer and the Chairman of the
44 Commission on Higher Education may each appoint a designee to sit
45 on the board; however, any designee named shall meet the
46 qualifications required of gubernatorial appointees to the board.

1 Members appointed by the Governor shall serve terms of three years
2 except that in making the initial appointments, the Governor shall
3 appoint one member to serve for one year, two members to serve for
4 two years, and two members to serve for three years. Any member
5 appointed to fill a vacancy on the board shall be appointed in a like
6 manner and shall serve until a successor qualifies. Members of the
7 board shall serve without compensation but shall be reimbursed for any
8 necessary expenses incurred in the performance of their duties.

9
10 8. The Governor shall appoint a member of the board to serve as
11 the initial chair of the board. Thereafter, the board shall elect a chair
12 annually. The board shall annually elect a board member to serve as
13 vice-chair and shall designate a secretary-treasurer who need not be a
14 member of the board. The secretary-treasurer shall keep a record of
15 the proceedings of the board and shall be the custodian of all printed
16 material filed with or by the board and of its official seal.
17 Notwithstanding the existence of vacancies on the board, a majority of
18 the members shall constitute a quorum. The board shall take no
19 official action in the absence of a quorum. The board shall meet, at a
20 minimum, on a quarterly basis at the call of the chair.

21
22 9. The board shall have the powers necessary or proper to carry
23 out the provisions of this act, including, but not limited to, the power
24 to:

25 a. appoint an executive director to serve as the chief administrative
26 and operational officer of the board and to perform other duties
27 assigned by the board;

28 b. adopt an official seal and rules;

29 c. sue and be sued;

30 d. make and execute contracts and other necessary instruments;

31 e. establish agreements or other transactions with federal, State,
32 and local agencies, including public institutions of higher education;

33 f. invest funds not required for immediate disbursement;

34 g. appear in its own behalf before boards, commissions, or other
35 governmental agencies;

36 h. hold, buy, and sell any instruments, obligations, securities, and
37 property determined appropriate by the board;

38 i. require a reasonable length of State residence for qualified
39 beneficiaries;

40 j. restrict the number of participants in the county college plan,
41 university plan, and dormitory residence plan, as those plans are
42 defined in section 18 of this act. A person denied participation solely
43 on the basis of this restriction shall be granted priority for
44 participation during the succeeding year;

45 k. segregate contributions and payments to the fund into various
46 accounts;

- 1 l. contract for necessary goods and services, employ necessary
2 personnel, and engage the services of private consultants, actuaries,
3 managers, legal counsel, and auditors for administrative or technical
4 assistance;
- 5 m. solicit and accept gifts, grants, loans, and other aids from any
6 source or participate in any other way in any government program to
7 carry out the purposes of this act;
- 8 n. require and collect administrative fees and charges in connection
9 with any transaction and impose reasonable penalties, including
10 default, for delinquent payments or for entering into an advance
11 payment contract on a fraudulent basis;
- 12 o. procure insurance against any loss in connection with the
13 property, assets, and activities of the fund or the board;
- 14 p. impose reasonable time limits on use of the tuition benefits
15 provided by the program. This limitation shall be specified within the
16 advance payment contract;
- 17 q. delineate the terms and conditions under which payments may
18 be withdrawn from the fund and impose reasonable fees and charges
19 for withdrawals. The terms and conditions shall be specified within
20 the advance payment contract;
- 21 r. provide for the receipt of contributions in lump sums or
22 installment payments;
- 23 s. establish other policies, procedures, and criteria to implement
24 and administer the provisions of this act; and
- 25 t. require that purchasers of advance payment contracts verify,
26 under oath, any requests for contract conversions, substitutions,
27 transfers, cancellations, refund requests, or contract changes of any
28 nature.
- 29
- 30 10. The board shall administer the fund in a manner that is
31 sufficiently actuarially sound to defray the obligations of the program.
32 The board shall annually evaluate or cause to be evaluated the
33 actuarial soundness of the fund. If the board determines a need for
34 additional assets in order to preserve actuarial soundness, the board
35 may adjust the terms of subsequent advance payment contracts to
36 ensure soundness.
- 37
- 38 11. a. The board, acting with the approval of the State Treasurer,
39 shall establish a comprehensive investment plan for the purposes of
40 this act. The comprehensive investment plan shall specify the
41 investment policies to be utilized by the board in its administration of
42 the fund. The board may place assets of the fund in savings accounts
43 or use the funds to purchase fixed or variable life insurance or annuity
44 contracts, securities, evidence of indebtedness, or other investment
45 products, pursuant to the comprehensive investment plan and in such
46 proportions as may be designated or approved under that plan. The

1 insurance, annuity, savings, or investment products shall be
2 underwritten and offered in compliance with the applicable federal and
3 State laws and regulations and by persons who are duly authorized by
4 applicable federal and State authorities. Within the comprehensive
5 investment plan, the board may authorize investment vehicles, or
6 products incident thereto, as may be available or offered by qualified
7 companies or persons.

8 b. The board may delegate responsibility for administration of the
9 comprehensive investment plan required pursuant to subsection a. of
10 this section to a person the board determines to be qualified. The
11 person shall be compensated by the board. Directly or through that
12 person, the board may contract with a private corporation or
13 institution to provide such services as may be a part of the
14 comprehensive investment plan or as may be deemed necessary or
15 proper by the board or designated person, including, but not limited
16 to, providing consolidated billing, individual and collective record
17 keeping and accounting, and asset purchase, control, and safekeeping.

18 c. The board shall annually prepare or cause to be prepared a
19 report setting forth in appropriate detail an accounting of the fund and
20 a description of the financial condition of the program at the close of
21 each fiscal year. The report shall be submitted to the Governor, the
22 President of the Senate, the Speaker of the General Assembly, the
23 State Treasurer and members of the Commission on Higher Education
24 on or before August 1 each year. In addition, the board shall make the
25 report available to purchasers of advance payment contracts. The
26 board shall provide to the Commission on Higher Education by
27 August 1 each year complete advance payment contract sales
28 information including projected higher education enrollments of
29 qualified beneficiaries. The accounts of the funds shall be subject to
30 annual audits by the State Auditor or his designee.

31 d. The board shall solicit answers to applicable ruling requests
32 from the federal Internal Revenue Service regarding the tax status of
33 fees paid pursuant to an advance payment contract to the purchaser or
34 qualified beneficiary and from the Securities and Exchange
35 Commission regarding the application of federal securities laws to the
36 fund. The board shall make the status of the requests known before
37 entering into an advance payment contract.

38 e. The board shall solicit proposals for the marketing of the
39 program. The entity designated pursuant to this subsection shall serve
40 as a centralized marketing agent for the program and shall be solely
41 responsible for the marketing of the program. Materials produced for
42 the purpose of marketing the program shall be submitted to the board
43 for review and approval. Marketing materials shall not be made
44 available or distributed to the public prior to the materials being
45 approved by the board. An institution of higher education may
46 distribute marketing materials produced for the program. The State

1 and the board shall not be liable for misrepresentation of the program
2 by a marketing agent.

3 f. The board may make available insurance coverage written
4 exclusively for the purpose of protecting advance payment contracts,
5 and the purchasers or beneficiaries thereof, which may be issued in the
6 form of a group term life policy to purchasers of advance payment
7 contracts.

8

9 12. The board shall develop advance payment contracts for tuition
10 and registration fees and advance payment contracts for dormitory
11 residence. Advance payment contracts shall be exempt from the
12 provisions of Subtitle 3 of Title 17 of the Revised Statutes and Subtitle
13 3 of Title 17B of the New Jersey Statutes. The board may request
14 assistance from the Office of the Attorney General in the development
15 of the advance payment contracts. The contents of both types of
16 contracts shall include, but not be limited to, the following:

17 a. the amount of the payments and the number of payments
18 required from a purchaser;

19 b. the terms and conditions under which purchasers are required
20 to remit payments, including, but not limited to, the date or dates
21 upon which each payment is due;

22 c. provisions for late payment charges and for default;

23 d. provisions for penalty fees for withdrawals from the fund;

24 e. the name and date of birth of the qualified beneficiary on whose
25 behalf the contract is drawn and the terms and conditions under which
26 another person may be substituted as the qualified beneficiary;

27 f. the name of any person who may cancel the contract. The terms
28 of the contract shall specify whether the contract may be canceled by
29 the purchaser, the qualified beneficiary, a specific designated person,
30 or any combination of these persons;

31 g. the terms and conditions under which a contract may be
32 canceled, the name of the person entitled to any refund due as a result
33 of the cancellation, and the amount of refund, if any, due to the
34 person named;

35 h. the time limitations, if any, within which the qualified beneficiary
36 is required to claim benefits through the program; and

37 i. other terms and conditions deemed by the board to be necessary
38 or proper.

39

40 13. In addition to the provisions of section 12 of this act, an
41 advance payment contract for tuition and registration fees shall
42 include, but not be limited to, the following:

43 a. the number of semester credit hours contracted by the purchaser;

44 b. whether the contracted credit hours are to be applied toward a
45 four-year public institution of higher education or a county college;

46 c. the assumption of a contractual obligation by the board to the

1 qualified beneficiary to provide for a specified number of semester
2 credit hours of undergraduate instruction at a public institution of
3 higher education, not to exceed the average number of credit hours
4 required for the conference of the degree that corresponds to the plan
5 purchased on behalf of the qualified beneficiary.

6
7 14. In addition to the provisions of section 12 of this act, an
8 advance payment contract for dormitory residence shall include, but
9 not be limited to, the following:

10 a. the number of semesters of dormitory residence contracted by
11 the purchaser; and

12 b. the assumption of a contractual obligation by the board to the
13 qualified beneficiary to provide for a specified number of semesters of
14 dormitory residence at a public institution of higher education, not to
15 exceed the maximum number of semesters of full-time enrollment
16 required for the conference of a baccalaureate degree.

17
18 15. An advance payment contract may provide that a contract
19 which has not been canceled and under which benefits have not been
20 exercised within a specified period of time, shall be considered
21 terminated. Time expended by a qualified beneficiary as an active duty
22 member of any of the armed services of the United States shall be
23 added to the period of time permitted to exercise the benefits under
24 the advance payment contract. A purchaser or qualified beneficiary
25 whose advance payment contract is terminated pursuant to this section
26 shall not be entitled to a refund. The board shall retain any moneys
27 paid by the purchaser for an advance payment contract that has been
28 terminated in accordance with this section. The moneys retained by
29 the board shall be used by the board to further the purposes of this act.

30
31 16. A refund provided pursuant to of subsection g. of section 12
32 of this act, shall not exceed the amount paid into the fund by the
33 purchaser, except as provided in this section. Refunds may exceed the
34 amount paid into the fund in the following circumstances:

35 a. if the qualified beneficiary is awarded a scholarship, the terms of
36 which cover the benefits included in the advance payment contracts,
37 moneys paid for the purchase of the advance payment contracts shall
38 be returned to the purchaser in semester installments coinciding with
39 the matriculation by the qualified beneficiary in amounts of either the
40 original purchase price plus 5% compounded interest, or the current
41 rates at public institutions of higher education, whichever is less;

42 b. in the event of the death or total disability of the qualified
43 beneficiary, moneys paid for the purchase of advance payment
44 contracts shall be returned to the purchaser together with 5%
45 compounded interest, or the current rates at public institutions of
46 higher education, whichever is less; and

1 c. if an advance payment contract is converted from a university
2 plan to a county college plan, the amount refunded shall be the value
3 of the original advance payment contract minus the value of the
4 contract after the conversion.

5
6 17. A refund shall not be authorized through an advance payment
7 contract for any school year partially attended but not completed. For
8 purposes of this section, a school year partially attended but not
9 completed means any one semester whereby the student is still enrolled
10 at the conclusion of the official drop-add period, but withdraws before
11 the end of the semester. If a qualified beneficiary does not complete
12 a county college plan or university plan, as those terms are defined
13 pursuant to section 18 of this act, for reasons other than specified in
14 section 16 of this act, the purchaser shall receive a refund of the
15 amount paid into the fund for the remaining unattended years of the
16 advance payment contract pursuant to rules promulgated by the board.

17
18 18. At a minimum, the board shall make advance payment
19 contracts available for three independent plans to be known as the
20 county college plan, the university plan, and the dormitory residence
21 plan.

22 a. Through the county college plan, the advance payment contract
23 shall provide prepaid tuition and registration fees for a specified
24 number of undergraduate semester credit hours not to exceed the
25 average number of hours required for the conference of an associate
26 degree. The cost of participation in the county college plan shall be
27 based primarily on the average current and projected tuition and
28 registration fees within the county college system and the number of
29 years expected to elapse between the purchase of the plan on behalf of
30 a qualified beneficiary and the exercise of the benefits provided in the
31 plan by the qualified beneficiary. Qualified beneficiaries shall bear the
32 cost of any laboratory fees associated with enrollment in specific
33 courses. Each qualified beneficiary shall be classified as a resident for
34 tuition purposes regardless of his actual legal residence.

35 b. Through the university plan, the advance payment contract shall
36 provide prepaid tuition and registration fees for a specified number of
37 undergraduate semester credit hours not to exceed the average
38 number of hours required for the conference of a baccalaureate
39 degree. The cost of participation in the university plan shall be based
40 primarily on the current and projected tuition and registration fees of
41 the four-year public institutions of higher education and the number
42 of years expected to elapse between the purchase of the plan on
43 behalf of a qualified beneficiary and the exercise of the benefits
44 provided in the plan by the beneficiary. Qualified beneficiaries shall
45 bear the cost of any laboratory fees associated with enrollment in
46 specific courses. In the event that a qualified beneficiary fails to be

1 admitted to a four-year public institution of higher education or
2 chooses to attend a county college, the qualified beneficiary may
3 convert the average number of semester credit hours required for the
4 conference of an associate degree from a university plan to a county
5 college plan and may retain the remaining semester credit hours in the
6 university plan or may request a refund for prepaid credit hours in
7 excess of the average number of semester credit hours required for the
8 conference of an associate degree pursuant to section 16 of this act.
9 Each qualified beneficiary shall be classified as a resident for tuition
10 purposes regardless of his actual legal residence.

11 c. Through the dormitory residence plan, the advance payment
12 contract shall provide prepaid housing fees for a maximum of 10
13 semesters of full-time undergraduate enrollment in a four-year public
14 institution of higher education. Dormitory residence plans are optional
15 and may be purchased only in conjunction with a university plan.
16 Dormitory residence plans shall be purchased in increments of two
17 semesters. The cost of participation in the dormitory residence plan
18 shall be based primarily on the average current and projected housing
19 fees of four-year public institutions of higher education and the
20 number of years expected to elapse between the purchase of the plan
21 on behalf of a qualified beneficiary and the exercise of the benefits
22 provided in the plan by the qualified beneficiary. Qualified
23 beneficiaries shall bear the cost of any additional elective charges such
24 as laundry service or long-distance telephone service. Each four-year
25 public institution of higher education may specify the residence halls
26 eligible for inclusion in the plan. In addition, a four-year public
27 institution of higher education may request immediate termination of
28 a dormitory residence contract based on a violation or multiple
29 violations of rules of the residence hall. Qualified beneficiaries shall
30 have the highest priority in the assignment of housing within residence
31 halls. In the event that sufficient housing is not available for all
32 qualified beneficiaries, the board shall refund the purchaser or qualified
33 beneficiary an amount equal to the fees charged for dormitory
34 residence during that semester.

35 d. In addition to the plans required pursuant to this section, the
36 board may make advance payments contracts available for other plans,
37 such as the community college plus university plan whereby the
38 advance payment contract would provide tuition and registration fees
39 that would allow a qualified beneficiary to attend a community college
40 for an associate degree and then attend a four-year public institution
41 of higher education for a baccalaureate degree.

42 e. A qualified beneficiary may apply a county college plan,
43 university plan, or dormitory residence plan toward any eligible
44 independent institution of higher education. The board shall transfer
45 or cause to have transferred to the eligible independent institution of
46 higher education designated by the qualified beneficiary an amount not

1 to exceed the redemption value of the advance payment contract
2 within a public institution of higher education. In the event that the
3 cost of tuition and registration fees or housing fees at the
4 independent institution of higher education are less than the
5 corresponding fees at a public institution of higher education, the
6 amount transferred shall not exceed the actual cost of tuition and
7 registration fees or housing fees. A transfer authorized pursuant to
8 this subsection shall not exceed the number of semester credit hours
9 or semesters of dormitory residence contracted on behalf of a
10 qualified beneficiary.

11 f. A qualified beneficiary may apply the benefits of an advance
12 payment contract toward an eligible out-of-state public college or
13 university. An out-of-state public college or university which is not
14 for profit, is accredited by a regional accrediting association, and
15 which confers baccalaureate degrees shall be eligible for such
16 application. The board shall transfer, or cause to have transferred, an
17 amount not to exceed the redemption value of the advance payment
18 contract or the original purchase price plus 5% compounded interest,
19 whichever is less, after assessment of a reasonable transfer fee. In the
20 event that the cost of registration or housing fees charged the qualified
21 beneficiary at the eligible out-of-state college or university is less than
22 this calculated amount, the amount transferred shall not exceed the
23 actual cost of tuition and registration fees or housing fees. Any
24 remaining amount shall be transferred in subsequent semesters until
25 the transfer value is depleted. A transfer authorized pursuant to this
26 subsection shall not exceed the number of semester credit hours or
27 semesters of dormitory residence contracted on behalf of a qualified
28 beneficiary.

29

30 19. The board shall solicit proposals for the operation of the
31 program through which the board shall contract for the services of a
32 records administrator, a trustee services firm, and one or more product
33 providers.

34 a. The records administrator shall be the entity designated by the
35 board to conduct the daily operations of the program on behalf of the
36 board. The goals of the board in selecting a records administrator
37 shall be to provide purchasers with the most secure, well-diversified,
38 and beneficially administered higher education expense plan possible,
39 to allow all qualified firms interested in providing the services equal
40 consideration, and to provide the services to the State at no cost and
41 to the purchasers at the lowest cost possible. Evaluations of proposals
42 submitted pursuant to this subsection shall include, but not be limited
43 to, the following criteria:

44 (1) fees and other costs charged to purchasers that affect account
45 values or operational costs related to the program;

46 (2) past experience in records administration and current ability to

1 provide timely and accurate service in the areas of records
2 administration, audit and reconciliation, plan communication,
3 participant service, and complaint resolution;

4 (3) sufficient staff and computer capability for the scope and level
5 of service expected by the board; and

6 (4) financial history and current financial strength and capital
7 adequacy to provide administrative services required by the board.

8 b. The trustee services firm shall be the entity designated by the
9 board to select and supervise investment programs on behalf of the
10 board. The goals of the board in selecting a trustee services firm shall
11 be to obtain the highest standards of professional trustee services, to
12 allow all qualified firms interested in providing services equal
13 consideration, and to provide services to the State at no cost and to
14 the purchasers at the lowest cost possible. The trustee services firm
15 shall agree to meet the obligations of the board to qualified
16 beneficiaries if moneys in the fund fail to offset the obligations of the
17 board as a result of imprudent selection or supervision of investment
18 programs by the firm. Evaluations of proposals submitted pursuant
19 to this subsection shall include, but not be limited to the following
20 criteria:

21 (1) adequacy of trustee services for supervision and management of
22 the program, including current operations and staff organization and
23 commitment of management to the proposal;

24 (2) capability to execute program responsibilities within time and
25 regulatory constraints;

26 (3) past experience in trustee services and current ability to
27 maintain regular and continuous interactions with the board, records
28 administrator, and product provider;

29 (4) the minimum purchaser participation assumed within the
30 proposal and any additional requirements of purchasers;

31 (5) adequacy of technical assistance and services proposed for
32 staff;

33 (6) adequacy of a management system for evaluating and improving
34 overall trustee services to the program;

35 (7) adequacy of facilities, equipment, and electronic data processing
36 services; and

37 (8) detailed projections of administrative costs, including the
38 amount and type of insurance coverage, and detailed projections of
39 total costs.

40

41 20. Moneys paid into or out of the fund by or on behalf of a
42 purchaser or qualified beneficiary of an advance payment contract
43 made under this act, which contract has not been terminated or
44 canceled, are exempt for all claims of creditors of the purchaser or the
45 beneficiary.

1 included in both types of advance payment contracts. These
2 provisions include:
3 - the amount of the payment and the number of payments required;
4 - the terms and conditions under which a purchaser will remit
5 payments, including, but not limited to, the dates upon which each
6 payment will be due;
7 - provisions for late payment charges and for default;
8 - provisions for penalty fees for withdrawals from the fund;
9 - the name and date of birth of the qualified beneficiary on whose
10 behalf the contract is drawn and the terms and conditions under which
11 another person may be substituted as the qualified beneficiary;
12 - the name of any person who may cancel the contract;
13 - the terms and conditions under which a contract may be canceled,
14 the name of the person entitled to any refund due as a result of the
15 cancellation, and the amount of refund, if any, due to the person
16 named;
17 - the time limitations, if any, within which the qualified beneficiary
18 must claim benefits through the program; and
19 - other terms and conditions deemed by the board to be necessary
20 or proper.

21 In addition to these general provisions, the bill also requires that
22 each type of advance payment contract include specific provisions.
23 The advance payment contract for tuition and registration fees, for
24 example, will have to include the number of semester credit hours
25 contracted by the purchaser and whether the credit hours will be
26 applied toward a four- year public institution of higher education or a
27 county college. This type of advance payment contract will also
28 include a provision obligating the board to provide to the qualified
29 beneficiary the specified number of semester credit hours, not to
30 exceed the average number of credit hours required for the conference
31 of the degree that corresponds to the plan purchased on behalf of the
32 qualified beneficiary.

33 An advance payment contract for dormitory residence will have to
34 include the number of semesters of dormitory residence contracted by
35 the purchaser. This advance payment contract, similar to the advance
36 payment contract for tuition and registration fees, will have to include
37 a provision obligating the board to provide to a qualified beneficiary
38 the specified number of semesters of dormitory residence, not to
39 exceed the maximum number of semesters of full-time enrollment
40 required for the conference of a baccalaureate degree.

41 Under the bill, the board will be required to make advance payment
42 contracts available for three independent plans, to be known as the
43 county college plan, the university plan, and the dormitory residence
44 plan. Through a county college plan, the advance payment contract
45 will provide prepaid tuition and registration fees for a specified
46 number of undergraduate semester credit hours not to exceed the

1 average number of hours required for the conference of an associate
2 degree. Through a university plan, the advance payment contract will
3 provide prepaid tuition and 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 a baccalaureate
6 degree. The cost of participating in each of these plans will be based
7 primarily on the average current and projected tuition and registration
8 fees within the county college system or the four-year public
9 institutions of higher education, respectively, and the number of years
10 expected to elapse between the purchase of the plan and the exercise
11 of the benefits by the qualified beneficiary.

12 Through the dormitory plans, the advance payment contract will
13 provide prepaid housing fees for a maximum of 10 semesters of full-
14 time undergraduate enrollment in a four-year public institution of
15 higher education. These plans are optional, and may be purchased
16 only in conjunction with a university plan. As with the university plan,
17 costs of participation will be based primarily on the average current
18 and projected housing fees within the four-year public institutions of
19 higher education and the number of years expected to elapse between
20 the purchase of the plan and the exercise of the benefits by the
21 qualified beneficiary.

22 The bill permits any of these plans to be applied toward any
23 independent institution of higher education located within the State.

24 Under these circumstances, the board will transfer to these institutions
25 an amount not to exceed the redemption value of the advance payment
26 contract within a public institution of higher education. If the costs at
27 the independent institution of higher education is less than the
28 corresponding costs at a public institution of higher education, then
29 the amount transferred may not exceed the actual cost of tuition and
30 registration fees or housing fees.

31 The bill also permits the benefits of an advance payment contract to
32 be applied toward an out-of-state public college or university. To be
33 eligible, these institutions must be not for profit, accredited by a
34 regional accrediting association and confer baccalaureate degrees.
35 Under these circumstances, the board will transfer to these institutions
36 an amount not to exceed the redemption value of the advance payment
37 contract or the original purchase price plus 5% compounded interest,
38 whichever is less, after assessment of a reasonable transfer fees. If the
39 costs at the out-of-state public college or university are less than the
40 calculated amount, then the amount transferred may not exceed the
41 actual cost of tuition and registration fees or housing fees.

42 The bill states that it should not be construed as providing or
43 guaranteeing that a qualified beneficiary of an advance payment
44 contract will be admitted to a public institution of higher education or
45 to a particular one of these institutions, will be allowed to continue

1 enrollment at one of these institutions after admission or will be
2 graduated from one of these institutions.

3 The bill provides that if the State Treasurer determines that the
4 program is financially infeasible, the State may discontinue the
5 program. A qualified beneficiary who has been accepted by and is
6 enrolled or is within five years of enrollment in an independent
7 institution of higher education or public institution of higher education
8 will be entitled to exercise the benefits for which he has contracted.
9 Other contract holders will receive a refund of the amount paid into
10 the fund plus interest at the prevailing rate.

11

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15 Establishes New Jersey Prepaid Higher Education Expense Program.