

ASSEMBLY, No. 2400

STATE OF NEW JERSEY

INTRODUCED OCTOBER 7, 1996

By Assemblyman O'TOOLE

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

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

7
8 1. (New Section) This act shall be known and may be cited as the
9 "New Jersey Prepaid Higher Education Expense Program Act of
10 1996."

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

28
29 3. (New Section) As used in this act:

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

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

34 "Fund" means the Prepaid Higher Education Expense Trust Fund

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 established pursuant to section 5 of this act.

2 "Independent institution of higher education" means those
3 institutions of higher education incorporated and located in this State,
4 which, by virtue of law or character or license, are nonprofit
5 educational institutions empowered to grant academic degrees and
6 which provide a level of education which is equivalent to the education
7 provided by the State's public institutions of higher education as
8 attested by the receipt of and continuation of regional accreditation by
9 the Middle States Association of Colleges and Schools, and which are
10 eligible to receive State aid under the provisions of the Constitution of
11 the United States and the Constitution of the State of New Jersey.
12 "Independent institution of higher education" does not include any
13 educational institution dedicated primarily to the preparation or
14 training of ministers, priests, rabbis, or other professional persons in
15 the field of religion.

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

18 "Qualified beneficiary" means:

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

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

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

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

32 "Registration fees" means any fees imposed by an institution of
33 higher education, in addition to tuition, required for matriculation at
34 the institution.

35

36 4. (New Section) There is established the New Jersey Prepaid
37 Higher Education Expense Program to provide a mechanism through
38 which the cost of tuition, registration fees, and dormitory residence
39 may be paid in advance of enrollment in a public institution of higher
40 education at a rate lower than the projected corresponding cost at the
41 time of actual enrollment. Under the program, moneys remitted in
42 accordance with advance payment contracts shall be combined and
43 invested in a manner that yields, at a minimum, sufficient interest to
44 generate the difference between the prepaid amount and the cost of
45 tuition, registration fees, and dormitory residence at the time of actual
46 enrollment. A student who enrolls in a public institution of higher

1 education pursuant to this act shall not be charged any fees in excess
2 of the terms set forth in the advance payment contract.

3
4 5. (New Section) There is created within the Department of the
5 Treasury the Prepaid Higher Education Expense Trust Fund. The fund
6 shall consist of State appropriations, moneys acquired from other
7 governmental or private sources, and moneys remitted in accordance
8 with advance payment contracts. Dividends, interest, and gains
9 accruing to the fund shall increase the total funds available for the
10 program. Any funds associated with contracts terminated pursuant to
11 section 15 of this act or with canceled contracts for which refunds
12 have not been claimed shall increase the total funds available for the
13 program. However, the board shall establish procedures for notifying
14 purchasers who cancel a contract of any unclaimed refund and shall
15 establish a time period after which a refund may not be claimed.

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

19
20 6. (New Section) The assets of the fund shall be maintained,
21 invested, and expended solely for the purposes of this act and shall not
22 be loaned, transferred, or otherwise used by the State for any purpose
23 other than the purposes of this act. This section shall not be construed
24 to prohibit the board from investing in, by purchase or otherwise,
25 bonds, notes, or other obligations of the State or an agency or
26 instrumentality of the State. Unless otherwise specified by the board,
27 assets of the fund shall be expended in the following order of priority:

28 a. to make payments to institutions of higher education on behalf of
29 qualified beneficiaries;

30 b. to make refunds upon cancellation of advance payment contracts;
31 and

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

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

43 b. The board shall consist of seven members including the State
44 Treasurer, the chairman of the Commission on Higher Education, and
45 five members appointed by the Governor with the advice and consent
46 of the Senate without regard for political affiliation. Each member

1 appointed by the Governor shall possess knowledge, skill, and
2 experience in the areas of accounting, actuary, risk management, or
3 investment management. The State Treasurer and the Chairman of the
4 Commission on Higher Education may each appoint a designee to sit
5 on the board; however, any designee named shall meet the
6 qualifications required of gubernatorial appointees to the board.
7 Members appointed by the Governor shall serve terms of three years
8 except that in making the initial appointments, the Governor shall
9 appoint one member to serve for one year, two members to serve for
10 two years, and two members to serve for three years. Any member
11 appointed to fill a vacancy on the board shall be appointed in a like
12 manner and shall serve until a successor qualifies. Members of the
13 board shall serve without compensation but shall be reimbursed for any
14 necessary expenses incurred in the performance of their duties.

15

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

27

28 9. (New Section) The board shall have the powers necessary or
29 proper to carry out the provisions of this act, including, but not limited
30 to, the power to:

- 31 a. appoint an executive director to serve as the chief administrative
32 and operational officer of the board and to perform other duties
33 assigned by the board;
- 34 b. adopt an official seal and rules;
- 35 c. sue and be sued;
- 36 d. make and execute contracts and other necessary instruments;
- 37 e. establish agreements or other transactions with federal, State,
38 and local agencies, including public institutions of higher education;
- 39 f. invest funds not required for immediate disbursement;
- 40 g. appear in its own behalf before boards, commissions, or other
41 governmental agencies;
- 42 h. hold, buy, and sell any instruments, obligations, securities, and
43 property determined appropriate by the board;
- 44 i. require a reasonable length of State residence for qualified
45 beneficiaries;
- 46 j. restrict the number of participants in the county college plan,

1 university plan, and dormitory residence plan, as those plans are
2 defined in section 18 of this act. A person denied participation solely
3 on the basis of this restriction shall be granted priority for
4 participation during the succeeding year;

5 k. segregate contributions and payments to the fund into various
6 accounts;

7 l. contract for necessary goods and services, employ necessary
8 personnel, and engage the services of private consultants, actuaries,
9 managers, legal counsel, and auditors for administrative or technical
10 assistance;

11 m. solicit and accept gifts, grants, loans, and other aids from any
12 source or participate in any other way in any government program to
13 carry out the purposes of this act;

14 n. require and collect administrative fees and charges in connection
15 with any transaction and impose reasonable penalties, including
16 default, for delinquent payments or for entering into an advance
17 payment contract on a fraudulent basis;

18 o. procure insurance against any loss in connection with the
19 property, assets, and activities of the fund or the board;

20 p. impose reasonable time limits on use of the tuition benefits
21 provided by the program. This limitation shall be specified within the
22 advance payment contract;

23 q. delineate the terms and conditions under which payments may
24 be withdrawn from the fund and impose reasonable fees and charges
25 for withdrawals. The terms and conditions shall be specified within
26 the advance payment contract;

27 r. provide for the receipt of contributions in lump sums or
28 installment payments;

29 s. establish other policies, procedures, and criteria to implement
30 and administer the provisions of this act; and

31 t. require that purchasers of advance payment contracts verify,
32 under oath, any requests for contract conversions, substitutions,
33 transfers, cancellations, refund requests, or contract changes of any
34 nature.

35

36 10. (New Section) The board shall administer the fund in a manner
37 that is sufficiently actuarially sound to defray the obligations of the
38 program. The board shall annually evaluate or cause to be evaluated
39 the actuarial soundness of the fund. If the board determines a need for
40 additional assets in order to preserve actuarial soundness, the board
41 may adjust the terms of subsequent advance payment contracts to
42 ensure soundness.

43

44 11. (New Section) a. The board, acting with the approval of the
45 State Treasurer, shall establish a comprehensive investment plan for
46 the purposes of this act. The comprehensive investment plan shall

1 specify the investment policies to be utilized by the board in its
2 administration of the fund. The board may place assets of the fund in
3 savings accounts or use the funds to purchase fixed or variable life
4 insurance or annuity contracts, securities, evidence of indebtedness, or
5 other investment products, pursuant to the comprehensive investment
6 plan and in such proportions as may be designated or approved under
7 that plan. The insurance, annuity, savings, or investment products
8 shall be underwritten and offered in compliance with the applicable
9 federal and State laws and regulations and by persons who are duly
10 authorized by applicable federal and State authorities. Within the
11 comprehensive investment plan, the board may authorize investment
12 vehicles, or products incident thereto, as may be available or offered
13 by qualified companies or persons.

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

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

37 d. The board shall solicit answers to applicable ruling requests
38 from the federal Internal Revenue Service regarding the tax status of
39 fees paid pursuant to an advance payment contract to the purchaser or
40 qualified beneficiary and from the Securities and Exchange
41 Commission regarding the application of federal securities laws to the
42 fund. The board shall make the status of the requests known before
43 entering into an advance payment contract.

44 e. The board shall solicit proposals for the marketing of the
45 program. The entity designated pursuant to this subsection shall serve
46 as a centralized marketing agent for the program and shall be solely

1 responsible for the marketing of the program. Materials produced for
2 the purpose of marketing the program shall be submitted to the board
3 for review and approval. Marketing materials shall not be made
4 available or distributed to the public prior to the materials being
5 approved by the board. An institution of higher education may
6 distribute marketing materials produced for the program. The State
7 and the board shall not be liable for misrepresentation of the program
8 by a marketing agent.

9 f. The board may make available insurance coverage written
10 exclusively for the purpose of protecting advance payment contracts,
11 and the purchasers or beneficiaries thereof, which may be issued in the
12 form of a group term life policy to purchasers of advance payment
13 contracts.

14

15 12. (New Section) The board shall develop advance payment
16 contracts for tuition and registration fees and advance payment
17 contracts for dormitory residence. Advance payment contracts shall
18 be exempt from the provisions of Subtitle 3 of Title 17 of the Revised
19 Statutes and Subtitle 3 of Title 17B of the New Jersey Statutes. The
20 board may request assistance from the Office of the Attorney General
21 in the development of the advance payment contracts. The contents
22 of both types of contracts shall include, but not be limited to, the
23 following:

24 a. the amount of the payments and the number of payments
25 required from a purchaser;

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

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

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

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

34 f. the name of any person who may cancel the contract. The terms
35 of the contract shall specify whether the contract may be canceled by
36 the purchaser, the qualified beneficiary, a specific designated person,
37 or any combination of these persons;

38 g. the terms and conditions under which a contract may be
39 canceled, the name of the person entitled to any refund due as a result
40 of the cancellation, and the amount of refund, if any, due to the
41 person named;

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

44 i. other terms and conditions deemed by the board to be necessary
45 or proper.

1 13. (New Section) In addition to the provisions of section 12 of
2 this act, an advance payment contract for tuition and registration fees
3 shall include, but not be limited to, the following:

- 4 a. the number of semester credit hours contracted by the purchaser;
5 b. whether the contracted credit hours are to be applied toward a
6 four-year public institution of higher education or a county college;
7 c. the assumption of a contractual obligation by the board to the
8 qualified beneficiary to provide for a specified number of semester
9 credit hours of undergraduate instruction at a public institution of
10 higher education, not to exceed the average number of credit hours
11 required for the conference of the degree that corresponds to the plan
12 purchased on behalf of the qualified beneficiary.

13
14 14. (New Section) In addition to the provisions of section 12 of
15 this act, an advance payment contract for dormitory residence shall
16 include, but not be limited to, the following:

- 17 a. the number of semesters of dormitory residence contracted by
18 the purchaser; and
19 b. the assumption of a contractual obligation by the board to the
20 qualified beneficiary to provide for a specified number of semesters of
21 dormitory residence at a public institution of higher education, not to
22 exceed the maximum number of semesters of full-time enrollment
23 required for the conference of a baccalaureate degree.

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

38
39 16. (New Section) A refund provided pursuant to of subsection g.
40 of section 12 of this act, shall not exceed the amount paid into the
41 fund by the purchaser, except as provided in this section. Refunds
42 may exceed the amount paid into the fund in the following
43 circumstances:

- 44 a. if the qualified beneficiary is awarded a scholarship, the terms of
45 which cover the benefits included in the advance payment contracts,
46 moneys paid for the purchase of the advance payment contracts shall

1 be returned to the purchaser in semester installments coinciding with
2 the matriculation by the qualified beneficiary in amounts of either the
3 original purchase price plus 5% compounded interest, or the current
4 rates at public institutions of higher education, whichever is less;

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

10 c. if an advance payment contract is converted from a university
11 plan to a county college plan, the amount refunded shall be the value
12 of the original advance payment contract minus the value of the
13 contract after the conversion.

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

27
28 18. (New Section) At a minimum, the board shall make advance
29 payment contracts available for three independent plans to be known
30 as the county college plan, the university plan, and the dormitory
31 residence plan.

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

45 b. Through the university plan, the advance payment contract shall
46 provide prepaid tuition and registration fees for a specified number of

1 undergraduate semester credit hours not to exceed the average
2 number of hours required for the conference of a baccalaureate
3 degree. The cost of participation in the university plan shall be based
4 primarily on the current and projected tuition and registration fees of
5 the four-year public institutions of higher education and the number
6 of years expected to elapse between the purchase of the plan on
7 behalf of a qualified beneficiary and the exercise of the benefits
8 provided in the plan by the beneficiary. Qualified beneficiaries shall
9 bear the cost of any laboratory fees associated with enrollment in
10 specific courses. In the event that a qualified beneficiary fails to be
11 admitted to a four-year public institution of higher education or
12 chooses to attend a county college, the qualified beneficiary may
13 convert the average number of semester credit hours required for the
14 conference of an associate degree from a university plan to a county
15 college plan and may retain the remaining semester credit hours in the
16 university plan or may request a refund for prepaid credit hours in
17 excess of the average number of semester credit hours required for the
18 conference of an associate degree pursuant to section 16 of this act.
19 Each qualified beneficiary shall be classified as a resident for tuition
20 purposes regardless of his actual legal residence.

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

45 d. In addition to the plans required pursuant to this section, the
46 board may make advance payments contacts available for other plans,

1 such as the community college plus university plan whereby the
2 advance payment contract would provide tuition and registration fees
3 that would allow a qualified beneficiary to attend a community college
4 for an associate degree and then attend a four-year public institution
5 of higher education for a baccalaureate degree.

6 e. A qualified beneficiary may apply a county college plan,
7 university plan, or dormitory residence plan toward any eligible
8 independent institution of higher education. The board shall transfer
9 or cause to have transferred to the eligible independent institution of
10 higher education designated by the qualified beneficiary an amount not
11 to exceed the redemption value of the advance payment contract
12 within a public institution of higher education. In the event that the
13 cost of tuition and registration fees or housing fees at the
14 independent institution of higher education are less than the
15 corresponding fees at a public institution of higher education, the
16 amount transferred shall not exceed the actual cost of tuition and
17 registration fees or housing fees. A transfer authorized pursuant to
18 this subsection shall not exceed the number of semester credit hours
19 or semesters of dormitory residence contracted on behalf of a
20 qualified beneficiary.

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

39
40 19. (New Section) The board shall solicit proposals for the
41 operation of the program through which the board shall contract for
42 the services of a records administrator, a trustee services firm, and one
43 or more product providers.

44 a. The records administrator shall be the entity designated by the
45 board to conduct the daily operations of the program on behalf of the
46 board. The goals of the board in selecting a records administrator

1 shall be to provide purchasers with the most secure, well-diversified,
2 and beneficially administered higher education expense plan possible,
3 to allow all qualified firms interested in providing the services equal
4 consideration, and to provide the services to the State at no cost and
5 to the purchasers at the lowest cost possible. Evaluations of proposals
6 submitted pursuant to this subsection shall include, but not be limited
7 to, the following criteria:

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

10 (2) past experience in records administration and current ability to
11 provide timely and accurate service in the areas of records
12 administration, audit and reconciliation, plan communication,
13 participant service, and complaint resolution;

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

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

18 b. The trustee services firm shall be the entity designated by the
19 board to select and supervise investment programs on behalf of the
20 board. The goals of the board in selecting a trustee services firm shall
21 be to obtain the highest standards of professional trustee services, to
22 allow all qualified firms interested in providing services equal
23 consideration, and to provide services to the State at no cost and to
24 the purchasers at the lowest cost possible. The trustee services firm
25 shall agree to meet the obligations of the board to qualified
26 beneficiaries if moneys in the fund fail to offset the obligations of the
27 board as a result of imprudent selection or supervision of investment
28 programs by the firm. Evaluations of proposals submitted pursuant
29 to this subsection shall include, but not be limited to the following
30 criteria:

31 (1) adequacy of trustee services for supervision and management of
32 the program, including current operations and staff organization and
33 commitment of management to the proposal;

34 (2) capability to execute program responsibilities within time and
35 regulatory constraints;

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

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

41 (5) adequacy of technical assistance and services proposed for
42 staff;

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

45 (7) adequacy of facilities, equipment, and electronic data processing
46 services; and

1 (8) detailed projections of administrative costs, including the
2 amount and type of insurance coverage, and detailed projections of
3 total costs.

4
5 20. (New Section) Moneys paid into or out of the fund by or on
6 behalf of a purchaser or qualified beneficiary of an advance payment
7 contract made under this act, which contract has not been terminated
8 or canceled, are exempt for all claims of creditors of the purchaser or
9 the beneficiary.

10
11 21. (New Section) The State or any State agency, county,
12 municipality, or other political subdivision may, by contract or
13 collective bargaining agreement, agree with any employee to remit
14 payments toward advance payment contracts through payroll
15 deductions made by the appropriate officer or officers of the State,
16 State agency, county, municipality, or political subdivision. The
17 payments shall be held and administered in accordance with this act.

18
19 22. (New Section) Nothing in this act shall be construed as a
20 promise or guarantee that a qualified beneficiary shall be admitted to
21 a public institution of higher education or to a particular public
22 institution of higher education, shall be allowed to continue
23 enrollment at a public institution of higher education after admission,
24 or shall be graduated from a public institution of higher education.

25
26 23. (New Section) The State shall agree to meet the obligations of
27 the board to qualified beneficiaries, if moneys in the fund fail to offset
28 the obligations of the board. The Legislature shall appropriate to the
29 Prepaid Higher Education Expense Trust Fund the amount necessary
30 to meet the obligations of the board to qualified beneficiaries.

31
32 24. (New Section) In the event that the State Treasurer determines
33 the program to be financially infeasible, the State may discontinue the
34 provision of the program. A qualified beneficiary who has been
35 accepted by and is enrolled or is within five years of enrollment in an
36 independent institution of higher education or public institution of
37 higher education shall be entitled to exercise the benefits for which he
38 has contracted. All other contract holders shall receive a refund of the
39 amount paid into the fund, plus interest at the prevailing rate.

40
41 25. Section 6 of P.L.1994, c.48 (C.18A:3B-6) is amended to read
42 as follows:

43 6. The governing board of each public institution of higher
44 education shall have the following general powers and duties to fulfill
45 its mission and the Statewide goals in cooperation with other
46 institutions and the State coordinating structures:

- 1 a. To develop an institutional plan and to determine the programs
2 and degree levels to be offered by the institution consistent with this
3 plan and the institution's programmatic mission;
- 4 b. To have authority over all matters concerning the supervision
5 and operations of the institution including fiscal affairs, the
6 employment and compensation of staff not classified under Title 11A
7 of the New Jersey Statutes, and capital improvements in accordance
8 with law;
- 9 c. To set tuition and fees; however, prior to the date of the
10 adoption of a tuition or fee schedule or an overall institutional budget,
11 and with reasonable notice thereof, the governing board shall conduct
12 a public hearing at such times and places as will provide those
13 members of the college community who wish to testify with an
14 opportunity to be heard. The tuition and fees shall be set according to
15 guidelines promulgated by the New Jersey Commission on Higher
16 Education to accommodate the provisions of the New Jersey Prepaid
17 Higher Education Expense Program established pursuant to section 4
18 of P.L. , c. (C.)(now pending before the Legislature as this bill);
- 19 d. To establish admission standards and requirements and
20 standards for granting diplomas, certificates and degrees;
- 21 e. To recommend for appointment by the Governor, members to
22 the institution's governing board. The recommendation shall be made
23 with regard to the mission of the institution and the diversity of the
24 community to be served;
- 25 f. To have final authority to determine controversies and disputes
26 concerning tenure, personnel matters of employees not classified under
27 Title 11A of the New Jersey Statutes, and other issues arising under
28 Title 18A of the New Jersey Statutes involving higher education
29 except as otherwise provided herein. Any hearings conducted pursuant
30 to this section shall conform to the requirements of the
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
32 seq.). The final administrative decision of a governing board of a
33 public institution of higher education is appealable to the Superior
34 Court, Appellate Division;
- 35 g. To invest and reinvest the funds of the institution; however,
36 institutions which invest the funds of the institution through the
37 Director of the Division of Investment in the Department of the
38 Treasury on or before the effective date of this act shall continue to do
39 so, unless this requirement is waived by the State Treasurer on an
40 annual basis, which waiver shall not be unreasonably withheld;
- 41 h. To retain legal counsel of the institution's choosing. State
42 entities may choose representation by the Attorney General; however,
43 as to claims of a tortious nature, the institution shall elect within 75
44 days of the effective date of this act whether it, and its employees,
45 shall be represented in all such matters by the Attorney General. If the
46 institution elects not to be represented by the Attorney General, it shall

1 be considered and its employees considered employees of a sue and be
2 sued entity for the purposes of the "New Jersey Tort Claims Act" only.
3 The institution shall be required in that circumstance to provide its
4 employees with defense and indemnification consistent with the terms
5 and conditions of the Tort Claims Act in lieu of the defense and
6 indemnification that such employees would otherwise seek and be
7 entitled to from the Attorney General pursuant to N.J.S.59:10-1 et
8 seq. and P.L.1972, c.48 (C.59:10A-1 et seq.);

9 i. To be accountable to the public for fulfillment of the institution's
10 mission and Statewide goals and for effective management of the
11 institution;

12 j. To submit a request for State support to the Division of Budget
13 and Accounting in the Department of the Treasury and to the
14 commission in accordance with the provisions of this act;

15 k. To have prepared and made available to the public an annual
16 financial statement, and a statement setting forth generally the moneys
17 expended for government relations, public relations and legal costs;

18 l. To have prepared an annual independent financial audit, which
19 audit and any management letters regarding that audit shall be deemed
20 public documents.

21 These powers and duties are in addition to and not a limitation of
22 the specific powers and duties provided for the governing board of
23 each public institution under chapters 64, 64A, 64G or 64E of Title
24 18A of the New Jersey Statutes. If the provisions of this section are
25 inconsistent with these specific powers and duties, the specific powers
26 and duties shall govern.

27 (cf: P.L.1994, c.48, s.6)

28

29 26. Section 14 of P.L.1994, c.48 (C.18A:3B-14) is amended to
30 read as follows:

31 14. The commission shall be responsible for:

32 a. Statewide planning for higher education including research on
33 higher education issues and the development of a comprehensive
34 master plan, including, but not limited to, the establishment of new
35 institutions, closure of existing institutions, and consolidation of
36 institutions, which plan shall be long-range in nature and regularly
37 revised and updated. The council may request the commission to
38 conduct a study of a particular issue. The commission may require
39 from institutions of higher education such reports or other information
40 as may be necessary to enable the commission to perform its duties;

41 b. advocacy on behalf of higher education including informing the
42 public of the needs and accomplishments of higher education in New
43 Jersey;

44 c. making recommendations to the Governor and Legislature on
45 higher education initiatives and incentive programs of Statewide
46 significance;

- 1 d. final administrative decisions over institutional licensure and
2 university status giving due consideration to the accreditation status
3 of the institution. The commission shall furnish the Presidents' Council
4 with any pertinent information compiled on behalf of the subject
5 institution and the council shall then make recommendations to the
6 commission concerning the licensure of the institution or university
7 status within sixty days of receipt of the information;
- 8 e. adopting a code of ethics applicable to institutions of higher
9 education;
- 10 f. final administrative decisions over new academic programs that
11 go beyond the programmatic mission of the institution and final
12 administrative decisions over a change in the programmatic mission of
13 an institution;
- 14 g. reviewing requests for State support from the institutions in
15 relation to the mission of the institution and Statewide goals and
16 proposing a coordinated budget policy statement to the Governor and
17 Legislature;
- 18 h. communicating with the State Board of Education and
19 Commissioner of Education to advance public education at all levels
20 including articulation between the public schools and higher education
21 community;
- 22 i. applying for and accepting grants from the federal government,
23 or any agency thereof, or grants, gifts or other contributions from any
24 foundation, corporation, association or individual, and complying with
25 the terms, conditions and limitations thereof, for the purpose of
26 advancing higher education. Any money so received may be expended
27 by the commission upon warrant of the director of the Office of
28 Management and Budget in the Department of the Treasury on
29 vouchers certified by the executive director of the commission;
- 30 j. acting as the lead agency of communication with the federal
31 government concerning higher education issues;
- 32 k. exercising all of the powers and duties previously exercised by
33 the Board of Higher Education, the Department of Higher Education,
34 and the Chancellor of Higher Education, under the "New Jersey
35 Higher Education Building Construction Bond Act of 1971,"
36 P.L.1971, c.164, the "New Jersey Medical Education Facilities Bond
37 Act of 1977," P.L.1977, c.235, the "Jobs, Science and Technology
38 Bond Act of 1984," P.L.1984, c.99 and the "Jobs, Education and
39 Competitiveness Bond Act of 1988," P.L.1988, c.78, the "Higher
40 Education Equipment Leasing Fund Act," P.L.1993, c.136, the
41 "Higher Education Facilities Trust Fund Act," P.L.1993, c.375 and the
42 "N.J. CLASS Loan Program," P.L.1991, c.268; [and]
- 43 l. exercising any other power or responsibility necessary in order
44 to carry out the provisions of this act; and
- 45 m. preparing guidelines for the use of governing boards of public
46 institutions of higher education in setting tuition and fees, in order to

1 accommodate the provisions of the New Jersey Prepaid Higher
2 Education Expense Program established pursuant to section 4 of
3 P.L. , c. (C.)(now pending before the Legislature as this bill).
4 (cf: P.L.1994, c.48, s.14)

5
6 27. N.J.S.18A:64-6 is amended to read as follows:

7 18A:64-6. The board of trustees of a State college shall have
8 general supervision over and shall be vested with the conduct of the
9 college. It shall have the power and duty to:

10 a. Adopt and use a corporate seal;

11 b. Determine the educational curriculum and program of the
12 college consistent with the programmatic mission of the institution or
13 approved by the Commission on Higher Education;

14 c. Determine policies for the organization, administration and
15 development of the college;

16 d. Study the educational and financial needs of the college;
17 annually acquaint the Governor and Legislature with the condition of
18 the college; and prepare and present the annual budget to the
19 Governor, the Division of Budget and Accounting in the Department
20 of the Treasury and the Legislature in accordance with law;

21 e. Disburse all moneys appropriated to the college by the
22 Legislature and all moneys received from tuition, fees, auxiliary
23 services and other sources;

24 f. Direct and control expenditures and transfers of funds
25 appropriated to the college and tuition received by the college, in
26 accordance with the provisions of the State budget and appropriation
27 acts of the Legislature, reporting changes and additions thereto and
28 transfers thereof to the Director of the Division of Budget and
29 Accounting in the State Department of the Treasury and as to funds
30 received from other sources, direct and control expenditures and
31 transfers in accordance with the terms of any applicable trusts, gifts,
32 bequests, or other special provisions. All accounts of the college shall
33 be subject to audit by the State at any time;

34 g. In accordance with the provisions of the State budget and
35 appropriation acts of the Legislature, appoint and fix the compensation
36 of a president of the college, who shall be the executive officer of the
37 college and an ex officio member of the board of trustees, without
38 vote, and shall serve at the pleasure of the board of trustees;

39 h. Notwithstanding the provisions of Title 11, Civil Service, of the
40 Revised Statutes, upon nomination by the president appoint a treasurer
41 and such deans and other professional members of the academic,
42 administrative and teaching staffs as defined in section 13 of P.L.1986,
43 c.42 (C.18A:64-21.2) as shall be required and fix their compensation
44 and terms of employment in accordance with salary ranges and policies
45 which shall prescribe qualifications for various classifications and shall
46 limit the percentage of the educational staff that may be in any given

- 1 classification;
- 2 i. Upon nomination by the president, appoint, remove, promote
3 and transfer such other officers, agents or employees as may be
4 required for carrying out the purposes of the college and assign their
5 duties, determine their salaries and prescribe qualifications for all
6 positions, all in accordance with the provisions of Title 11, Civil
7 Service, of the Revised Statutes;
- 8 j. Grant diplomas, certificates and degrees;
- 9 k. Pursuant to the provisions of the "State College Contracts
10 Law," P.L.1986, c.43 (C.18A:64-52 et seq.) enter into contracts and
11 agreements for the purchase of lands, buildings, equipment, materials,
12 supplies and services; enter into contracts and agreements with the
13 State or any of its political subdivisions or with the United States, or
14 with any public body, department or other agency of the State or the
15 United States or with any individual, firm, or corporation, which are
16 deemed necessary or advisable by the board for carrying out the
17 purposes of the college;
- 18 l. If necessary, take and condemn land and other property in the
19 manner provided by the "Eminent Domain Act of 1971," P.L.1971,
20 c.361 (C.20:3-1 et seq.), whenever authorized by law to purchase land
21 or other property;
- 22 m. Adopt, after consultation with the president and faculty, bylaws
23 and make and promulgate such rules, regulations and orders, not
24 inconsistent with the provisions of this article, that are necessary and
25 proper for the administration and operation of the college and the
26 carrying out of its purposes;
- 27 n. Establish fees for room and board sufficient for the operation,
28 maintenance, and rental of student housing and food service facilities;
- 29 o. Fix and determine tuition rates and other fees to be paid by
30 students. The tuition and fees shall be set according to guidelines
31 promulgated by the New Jersey Commission on Higher Education to
32 accommodate the provisions of the New Jersey Prepaid Higher
33 Education Expense Program established pursuant to section 4 of
34 P.L. , c. (C.)(now pending before the Legislature as this bill);
- 35 p. Accept from any government or governmental department,
36 agency or other public or private body or from any other source grants
37 or contributions of money or property, which the board may use for or
38 in aid of any of its purposes;
- 39 q. Acquire by gift, purchase, condemnation or otherwise, own,
40 lease, dispose of, use and operate property, whether real, personal or
41 mixed, or any interest therein, which is necessary or desirable for
42 college purposes;
- 43 r. Employ architects to plan buildings; secure bids for the
44 construction of buildings and for the equipment thereof; make
45 contracts for the construction of buildings and for equipment; and
46 supervise the construction of buildings;

1 s. Manage and maintain, and provide for the payment of all
2 charges and expenses in respect to all properties utilized by the
3 college;

4 t. Borrow money for the needs of the college, as deemed requisite
5 by the board, in such amounts, and for such time and upon such terms
6 as may be determined by the board, provided that this borrowing shall
7 not be deemed or construed to create or constitute a debt, liability, or
8 a loan or pledge of the credit, or be payable out of property or funds,
9 other than moneys appropriated for that purpose, of the State;

10 u. Authorize any new program, educational department or school
11 consistent with the institution's programmatic mission or approved by
12 the commission;

13 v. (Deleted by amendment, P.L.1994, c.48); and

14 w. Pursuant to the "State College Contracts Law," P.L.1986, c.43
15 (C.18A:64-52 et seq.), award contracts and agreements for the
16 performance of any construction work or the furnishing of any
17 materials or supplies to the lowest responsible bidder whose bid,
18 conforming to the invitation for bids, will be most advantageous to the
19 State colleges.

20 (cf: P.L.1994, c.48, s.96)

21
22 28. N.J.S.18A:64-13 is amended to read as follows:

23 18A:64-13. Students in each State college who are residents of
24 New Jersey shall be required to pay each year a minimum tuition fee
25 and nonresidents of the State shall pay an additional fee. Such fees
26 and any increase of the minimum tuition fee shall be determined by
27 each college board of trustees, according to guidelines promulgated by
28 the New Jersey Commission on Higher Education to accommodate the
29 provisions of the New Jersey Prepaid Higher Education Expense
30 Program established pursuant to section 4 of P.L. , c. (C.)(now
31 pending before the Legislature as this bill). The board of trustees may
32 waive the payment of the college's anticipated tuition revenues to
33 accomplish mission-related or policy goals.

34 (cf: P.L.1994, c.48, s.99)

35
36 29. N.J.S.18A:64A-12 is amended to read as follows:

37 18A:64A-12. For the effectuation of the purposes of this chapter,
38 the board of trustees of a county college in addition to such other
39 powers expressly granted to it by law, is hereby granted the following
40 powers:

41 a. To adopt or change the name of the county college;

42 b. To adopt and use a corporate seal;

43 c. To sue and be sued;

44 d. To determine the educational curriculum and program of the
45 college consistent with the programmatic mission of the institution or
46 approved by the Commission on Higher Education;

- 1 e. To appoint and fix the compensation and term of office of a
2 president of the college who shall be the executive officer of the
3 college and an ex officio member of the board of trustees;
- 4 f. To appoint, upon nomination of the president, members of the
5 administrative and teaching staffs and fix their compensation and terms
6 of employment subject to the provisions of N.J.S.18A:64A-13;
- 7 g. To appoint or employ such other officers, agents and employees
8 as may be required to carry out the provisions of this chapter and to
9 fix and determine their qualifications, duties, compensation, terms of
10 office and all other conditions and terms of employment and retention;
- 11 h. To fix and determine tuition rates and other fees to be paid by
12 students. The tuition and fees shall be set according to guidelines
13 promulgated by the New Jersey Commission on Higher Education to
14 accommodate the provisions of the New Jersey Prepaid Higher
15 Education Expense Program established pursuant to section 4 of
16 P.L. , c. (C.)(now pending before the Legislature as this bill);
- 17 i. To grant diplomas, certificates or degrees;
- 18 j. To enter into contracts and agreements with the State or any of
19 its political subdivisions or with the United States, or with any public
20 body, department or other agency of the State or the United States or
21 with any individual, firm or corporation which are deemed necessary
22 or advisable by the board for carrying out the provisions of this
23 chapter;
- 24 k. To accept from any government or governmental department,
25 agency or other public or private body or from any other source grants
26 or contributions of money or property which the board may use for or
27 in aid of any of its purposes;
- 28 l. To acquire (by gift, purchase, condemnation or otherwise), own,
29 lease, use and operate property, whether real, personal or mixed, or
30 any interest therein, which is necessary or desirable for college
31 purposes;
- 32 m. To determine that any property owned by the county college is
33 no longer necessary for college purposes and to sell the same at such
34 price and in such manner and upon such terms and conditions as shall
35 be established by the board;
- 36 n. To exercise the right of eminent domain, pursuant to the
37 provisions of Title 20, Eminent Domain, of the Revised Statutes, to
38 acquire any property or interest therein;
- 39 o. To make and promulgate such rules and regulations, not
40 inconsistent with the provisions of this chapter or with the rules and
41 regulations promulgated hereunder that are necessary and proper for
42 the administration and operation of a county college and to implement
43 the provisions of this chapter;
- 44 p. To exercise all other powers, not inconsistent with the
45 provisions of this chapter or with the rules and regulations
46 promulgated hereunder which may be reasonably necessary or

1 incidental to the establishment, maintenance and operation of a county
2 college; and

3 q. To establish and maintain a dedicated reserve fund for minor
4 capital needs which in any given year shall not exceed 3% of the
5 replacement value of the college's physical plant.

6 (cf: P.L.1994, c.48, s.128)

7

8 30. Section 8 of P.L.1982, c.42 (C.18A:64A-57) is amended to
9 read as follows:

10 8. The board of trustees shall have general supervision over and be
11 vested with the conduct of the college. It shall have the authority and
12 responsibility to:

13 a. Adopt and use a corporate seal;

14 b. Sue or be sued;

15 c. Determine the educational curriculum and program of the
16 college;

17 d. With the advice and consent of the board of governors, upon
18 expiration of the term of the current president of the private
19 institution, appoint and fix the compensation and term of office of a
20 president of the college, who shall be the executive officer of the
21 college;

22 e. Appoint, upon nomination of the president, members of the
23 administrative and teaching staff and fix their compensation and terms
24 of employment, subject to the provisions of general law;

25 f. Employ other officers, agents and employees, as may be
26 required to carry out the provisions of this act and fix and determine
27 their qualifications, duties, compensation, terms of office and all other
28 conditions and terms of employment;

29 g. Fix and determine tuition rates and other fees to be paid by
30 students. The tuition and fees shall be set according to guidelines
31 promulgated by the New Jersey Commission on Higher Education to
32 accommodate the provisions of the New Jersey Prepaid Higher
33 Education Expense Program established pursuant to section 4 of
34 P.L. , c. (C.)(now pending before the Legislature as this bill);

35 h. Grant diplomas, certificates or degrees;

36 i. Enter into contracts and agreements with the State or any of its
37 political subdivisions or with the United States, or with any public
38 body, department or other agency of the county, State or United
39 States, or with any individual firm or corporation, which is deemed
40 necessary or advisable by the board for carrying out the provisions of
41 this act;

42 j. Accept from any government or governmental department,
43 agency or other public or private body or from any other source grants
44 or contributions of money or property, which the board of trustees
45 may use for its purposes;

46 k. Disburse all moneys appropriated to the college by the county

1 and State, moneys received from tuition, fees, auxiliary services and
2 other sources, and from or by the direction of the board of governors;

3 l. Direct and control the expenditures of the college as to funds
4 received from the board of governors and other sources in accordance
5 with the terms of any applicable trusts, gifts, bequests, or other special
6 provisions;

7 m. Acquire by gift, purchase, condemnation or otherwise, own,
8 lease, use and operate property, whether real, personal or mixed, or
9 any interest therein, which is necessary or desirable for college
10 purposes;

11 n. Determine that any property owned and controlled by the board
12 of trustees of the county college is no longer necessary for college
13 purposes and sell the same at the price and in the manner and upon the
14 terms and conditions as shall be established by the board;

15 o. Make and promulgate rules and regulations not inconsistent with
16 the provisions of general law or of this act or with the rules and
17 regulations promulgated hereunder that are necessary and proper for
18 the administration or operation of the county college;

19 p. Exercise all other powers not inconsistent with the provisions of
20 this act or with rules and regulations promulgated hereunder, or with
21 general law, which may be reasonable, necessary or incidental to the
22 establishment, maintenance and operation of a county college; and

23 q. Establish and maintain a dedicated reserve fund for minor capital
24 needs, which in any given year shall not exceed 3% of the replacement
25 value of the college's physical plant.

26 (cf: P.L.1994, c.48, s.156)

27

28 31. Section 7 of P.L.1995, c.400 (C.18A:64E-18) is amended to
29 read as follows:

30 7. The board of trustees of the university shall have general
31 supervision over and be vested with the conduct, control, management
32 and administration of the university. It shall have the authority and
33 responsibility to:

34 a. Adopt, use, and modify, as it deems appropriate, its corporate
35 seal;

36 b. Determine the policies for the organization, administration and
37 development of the university;

38 c. Approve the establishment of new educational programs and
39 the discontinuance of existing educational programs at the university
40 consistent with the university's programmatic mission as authorized by
41 the State Board of Higher Education prior to July 1, 1994, or
42 authorized thereafter in accordance with the provisions of the "Higher
43 Education Restructuring Act of 1994," P.L.1994, c.48 (C.18A:3B-1
44 et seq.);

45 d. Study the educational and financial needs of the university,
46 annually acquaint the Governor and Legislature with the condition of

1 the university, and prepare and submit an annual request for
2 appropriation to the Division of Budget and Accounting in the
3 Department of the Treasury in accordance with law;

4 e. Disburse all moneys appropriated to the university by the
5 Legislature and thereafter provided the university and disburse all
6 moneys received from tuition, fees, auxiliary services and other
7 sources;

8 f. Direct and control expenditures and transfers of funds
9 appropriated and provided by the State through its legislative and
10 executive branches and as to funds received from other sources, direct
11 and control expenditures and transfers in accordance with the terms of
12 any applicable trusts, gifts, bequests, or other special provisions. The
13 university shall annually report changes and additions thereto and
14 transfers thereof to the Director of the Division of Budget and
15 Accounting in the Department of the Treasury. All accounts of the
16 university shall be subject to audit by the State at any time;

17 g. Appoint and fix the compensation and term of office of a
18 president of the university, who, as the executive officer of the
19 university, shall be assigned that authority and delegated those duties
20 that the board, consistent with law and duly adopted bylaws of the
21 board, determines are in keeping with the purposes of this act and in
22 the best interests of the university;

23 h. Consistent with the provisions of its budget, this act and any
24 and all controlling collective bargaining agreements, have the power,
25 upon nomination or recommendation of the president, to appoint,
26 remove, promote and transfer all other officers, agents, or employees
27 which may be required to carry out the provisions of this act and
28 prescribe qualifications for those positions, and assign requisite duties
29 and determine and fix respective compensation for those positions in
30 accordance with duly adopted salary program parameters;

31 i. Subject to provision for impartial binding dispute resolution
32 through collective bargaining or as provided by university policy and
33 further subject to and limited by any law to the contrary, have final
34 authority to determine controversies and disputes concerning tenure,
35 personnel matters and other issues involving the university arising
36 under Title 18A of the New Jersey Statutes. Any hearings conducted
37 by the board pursuant to this section shall conform to the requirements
38 of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1
39 et seq.). The final administrative decision of the board, in any action
40 enabled hereunder, is appealable to the Superior Court, Appellate
41 Division;

42 j. Borrow money for the needs of the university, as deemed
43 requisite by the board, in such amounts, for such time and upon such
44 terms as may be determined by the board; provided that no such
45 borrowing shall be deemed or construed to create or constitute a debt,
46 liability, or a loan or pledge of the credit, or be payable out of

1 property or funds, other than moneys appropriated for that purpose,
2 of the State;

3 k. Purchase, lease, acquire by gifts, condemnation or otherwise,
4 manage, use, control, encumber and dispose of property, or any
5 interest therein, whether real, personal or mixed, including, but not
6 limited to, all buildings and grounds, as necessary or deemed desirable
7 for university purposes.

8 (1) Employ architects and engineers to plan buildings and other
9 campus facilities; secure bids for the construction of buildings and for
10 the equipment thereof; make contracts for the construction of
11 buildings and for the equipment thereof; and supervise that
12 construction;

13 (2) Accept from any government or governmental department,
14 agency or other public or private body or from any other source grants
15 or contributions of money or property which the board may use for or
16 in aid of any of its purposes;

17 (3) Adopt standing operating rules and procedures for the purchase
18 of all properties, whether real, personal or mixed and including all
19 equipment, materials and supplies and for the purchase of all services.
20 These rules and procedures shall include public competitive bidding,
21 where the sum to be expended exceeds \$17,700 or the amount
22 determined by the Governor as provided herein and the awarding of
23 contracts to that responsible bidder whose bid, conforming to the
24 invitation for bids, will be most advantageous to the university, price
25 and other factors considered . This public bidding process shall not be
26 required in those exceptions created by the board of trustees of the
27 university, which shall be in substance those exceptions contained in
28 sections 4 and 5 of P.L.1954, c.48 (C.52:34-9 and 10). Neither shall
29 public bidding be required for the supplying of any product or the
30 rendering of any service by a public utility, subject to the jurisdiction
31 of the Board of Public Utilities of the State and tariffs and schedules
32 of the charges, made, charged, or exacted by the public utility for any
33 products to be supplied or services to be rendered as are filed with that
34 board. Commencing January 1, 1997 and every two years thereafter,
35 the Governor, in consultation with the Department of the Treasury,
36 shall adjust the threshold amount set forth in this paragraph in direct
37 proportion to the rise or fall of the consumer price index for all urban
38 consumers in the New York City and the Philadelphia areas as
39 reported by the United States Department of Labor. The Governor
40 shall notify the university of the adjustment. The adjustment shall
41 become effective on July 1 of the year in which it is reported.

42 This subsection shall not prevent the university from having any
43 work done by its own employees, nor shall it apply to repairs, or to the
44 furnishing of materials, supplies or labor or the hiring of equipment or
45 vehicles, when the safety or protection of its or other public property
46 or the public convenience requires or the exigency of the university's

1 service will not admit of such advertisement. In such case, the
2 university shall, by resolution passed by an affirmative vote of its
3 board of trustees, declare the exigency or emergency to exist,
4 remediate as practicable and maintain appropriate records as to the
5 reason for such awards, reporting as soon as practicable thereafter to
6 its board of trustees on all such purchases, the amounts and the
7 reasons therefor;

8 (4) Manage and maintain, and provide for the payment of all
9 charges on and expenses in respect of, all properties utilized by the
10 university;

11 (5) Invest certain moneys in such obligations, securities and other
12 investments as the board shall deem prudent consistent with the
13 purpose and provisions of this act and in accordance with State and
14 federal law, as follows:

15 Investment in not for profit corporations or for profit corporations
16 organized and operated pursuant to the provisions of subsection s. of
17 this section may utilize income realized from the sale or licensing of
18 intellectual property as well as the reinvestment of earnings on
19 intellectual property. Investment in not for profit corporations may
20 also utilize income from overhead grant fund recovery as permitted by
21 federal law as well as other university funds except those specified in
22 paragraph 4 of subsection s. of this section;

23 (6) Exercise the right of eminent domain, pursuant to the
24 provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361
25 (C.20:3-1 et seq.), to acquire any property or interest therein;

26 1. Fix and determine tuition rates, and other fees to be paid by
27 students, after reasonable notice and public hearing pursuant to the
28 provisions of the "Higher Education Restructuring Act of 1994,"
29 P.L.1994, c.48 (C.18A:3B-1 et seq.). The tuition and fees shall be set
30 according to guidelines promulgated by the New Jersey Commission
31 on Higher Education to accommodate the provisions of the New
32 Jersey Prepaid Higher Education Expense Program established
33 pursuant to section 4 of P.L. , c. (C.)(now pending before the
34 Legislature as this bill);

35 m. Grant diplomas, certificates or degrees;

36 n. Enter into contracts and agreements with the State or any of its
37 political subdivisions or with the United States, or with any public
38 body, department or other agency of the State or the United States or
39 with any individual, firm or corporation which are deemed necessary
40 or advisable by the board for carrying out the provisions of this act.
41 A contract or agreement pursuant to this subsection may require a
42 municipality to undertake obligations and duties to be performed
43 subsequent to the expiration of the term of office of the elected
44 governing body of the municipality which initially entered into or
45 approved the contract or agreement, and the obligations and duties so
46 incurred by the municipality shall be binding and of full force and

1 effect, notwithstanding that the term of office of the elected members
2 of the governing body of the municipality which initially entered into
3 or approved that contract or agreement, shall have expired.

4 Pursuant to this subsection, the board of trustees may procure and
5 enter into contracts for any type of insurance and indemnify against
6 loss or damage to property from any cause, including loss of use and
7 occupancy, against death or injury of any person, against employees'
8 liability, against any act of any member, officer, employee or servant
9 of the university, whether part-time, full-time, compensated or
10 non-compensated in the performance of the duties of his office or
11 employment or any other insurable risk. In addition, the university
12 shall carry its own liability insurance or maintain an actuarially sound
13 program of self-insurance. Any joint venture, subsidiary corporation,
14 or partnership or other jural entity entered into or owned wholly or in
15 part by the university shall maintain insurance or reserves in such
16 amounts as are determined by an actuary to be sufficient to meet its
17 actual or accrued claims;

18 o. Adopt bylaws and amend the same as deemed necessary from
19 time to time and make, promulgate and modify at its pleasure such
20 rules, regulations and orders, not inconsistent with the provisions of
21 this act, as are deemed necessary and proper for the administration and
22 operation of the university and to implement the provisions of this act;

23 p. Develop an institutional plan and determine the schools,
24 departments, programs and degree levels to be offered by the
25 university consistent with that plan and the university's programmatic
26 mission as authorized by the State Board of Higher Education prior to
27 July 1, 1994, or authorized thereafter in accordance with the
28 provisions of the "Higher Education Restructuring Act of 1994,"
29 P.L.1994, c.48 (C.18A: 3B-1 et seq.);

30 q. Function as a public employer under the "New Jersey
31 Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et
32 seq.), appointing its chief spokesperson and continuing to conduct all
33 labor negotiations with the participation of the Governor's Office of
34 Employee Relations;

35 r. Continue to retain independent counsel;

36 s. Participate as the general partner or as a limited partner, either
37 directly or through a subsidiary corporation created by the university,
38 in limited partnerships, general partnerships, or joint ventures engaged
39 in the development, manufacture, or marketing of products,
40 technology, scientific information or services and create or form for
41 profit or not for profit corporations to engage in such activities;
42 provided that any such participation shall be consistent with the
43 mission of the university and the board shall have determined that such
44 participation is prudent.

45 (1) The decision to participate in any of the activities described in
46 this subsection, including the creation or formation of for profit or not

1 for profit corporations, shall be articulated in the minutes of the board
2 of trustees meeting in which action was approved. A true copy of the
3 minutes of that meeting shall be delivered to the Governor. No such
4 action shall take effect until 30 days, Saturdays, Sundays and public
5 holidays excepted, after the copy of the minutes shall have been
6 delivered to the Governor. If, within the 30-day period, the Governor
7 returns the minutes of the meeting with a veto of the action taken by
8 the board, the action taken by the board shall be null and void and of
9 no effect.

10 (2) Any actions taken by the university pursuant to this subsection
11 shall be in conformity with the university's policy on conflicts of
12 interest and the provisions of P.L.1971, c.182 (C.52:13D-12 et seq.),
13 which shall apply to the university, its employees and officers.

14 (3) Nothing herein shall be deemed or construed to create or
15 constitute a debt, liability, or a loan or pledge of the credit or be
16 payable out of property or funds of the State.

17 (4) Funds directly appropriated to the university from the State or
18 derived from the university's academic programs shall not be utilized
19 by the for profit or not for profit corporations organized and operated
20 pursuant to this subsection in the development, manufacture or
21 marketing of products, technology or scientific information.

22 (5) Employees of any joint venture, subsidiary corporation,
23 partnership or other jural entity entered into or owned wholly or in
24 part by the university shall not be deemed public employees.

25 (6) A joint venture, subsidiary corporation, partnership or other
26 jural entity entered into or owned wholly or in part by the university
27 shall not be deemed an instrumentality of the State of New Jersey.

28 (7) Income realized by the university as a result of participation in
29 the development, manufacture or marketing of products, technology,
30 or scientific information may be invested, reinvested or retained by the
31 board in accordance with the provisions of this act and any other State
32 or federal law for use in furtherance of any of the purposes of this act
33 or of other applicable statutes.

34 (8) The board shall include in its annual report to the State
35 Treasurer, the operation of all joint ventures, subsidiary corporations,
36 partnerships or other jural entities entered into or owned wholly or in
37 part by the university;

38 t. Create, operate, or participate in the operation of such auxiliary
39 organizations as permitted by law which the board deems prudent and
40 which are in keeping with the educational and public service mission
41 of the university; and

42 u. Sue and be sued in its own name.

43 (cf: P.L.1995, c.400, s.7)

44

45 32. Section 6 of P.L.1970, c.102 (C.18A:64G-6) is amended to
46 read as follows:

- 1 6. The board of trustees of the university shall have the general
2 supervision over and be vested with the conduct of the university,
3 including its health care facilities regardless of the source of funding.
4 It shall have the power and duty to:
- 5 (a) Adopt and use a corporate seal;
- 6 (b) Determine the educational curriculum and program of the
7 university;
- 8 (c) Determine policies for the organization, administration, and
9 development of the university;
- 10 (d) Study the educational and financial needs of the university,
11 annually acquaint the Governor and Legislature with the condition of
12 the university, and prepare and submit an annual request for
13 appropriation to the Division of Budget and Accounting in the
14 Department of the Treasury in accordance with law;
- 15 (e) Disburse all moneys appropriated to the university by the
16 Legislature and all moneys received from tuition, fees, auxiliary
17 services and other sources;
- 18 (f) Direct and control expenditures and transfers of funds
19 appropriated to the university in accordance with the provisions of the
20 State budget and appropriation acts of the Legislature, and, as to funds
21 received from other sources, direct and control expenditures and
22 transfers in accordance with the terms of any applicable trusts, gifts,
23 bequests, or other special provisions, reporting changes and additions
24 thereto and transfers thereof to the Director of the Division of Budget
25 and Accounting in the Department of the Treasury. All accounts of the
26 university shall be subject to audit by the State at any time;
- 27 (g) In accordance with the provisions of the State budget and
28 appropriation acts of the Legislature, appoint and fix the compensation
29 and term of office of a president of the university who shall be the
30 executive officer of the university;
- 31 (h) In accordance with the provisions of the State budget and
32 appropriation acts of the Legislature, appoint, upon nomination of the
33 president, such deans and other members of the academic,
34 administrative and teaching staffs as shall be required and fix their
35 compensation and terms of employment;
- 36 (i) In accordance with the provisions of the State budget and
37 appropriation acts of the Legislature, appoint, remove, promote and
38 transfer such other officers, agents, or employees as may be required
39 to carry out the provisions of this act and assign their duties,
40 determine their salaries, and prescribe qualifications for all positions
41 and in accordance with the salary schedules of the Civil Service
42 Commission wherever possible;
- 43 (j) Fix and determine tuition rates, and other fees to be paid by
44 students . The tuition and fees shall be set according to guidelines
45 promulgated by the New Jersey Commission on Higher Education to
46 accommodate the provisions of the New Jersey Prepaid Higher

1 Education Expense Program established pursuant to section 4 of
2 P.L. , c. (C.)(now pending before the Legislature as this bill);

3 (k) Grant diplomas, certificates or degrees;

4 (l) Enter into contracts and agreements with the State or any of its
5 political subdivisions or with the United States, or with any public
6 body, department or other agency of the State or the United States or
7 with any individual, firm or corporation which are deemed necessary
8 or advisable by the board for carrying out the provisions of this act.
9 A contract or agreement pursuant to this subsection may require a
10 municipality to undertake obligations and duties to be performed
11 subsequent to the expiration of the term of office of the elected
12 governing body of such municipality which initially entered into or
13 approved said contract or agreement, and the obligations and duties so
14 incurred by such municipality shall be binding and of full force and
15 effect, notwithstanding that the term of office of the elected governing
16 body of such municipality which initially entered into or approved said
17 contract or agreement, shall have expired;

18 (m) Accept from any government or governmental department,
19 agency or other public or private body or from any other source grants
20 or contributions of money or property which the board may use for or
21 in aid of any of its purposes;

22 (n) (1) Acquire (by gift, purchase, condemnation or otherwise),
23 own, lease, dispose of, use and operate property, whether real,
24 personal or mixed, or any interest therein, which is necessary or
25 desirable for university purposes;

26 (2) Adopt standing operating rules and procedures for the purchase
27 of all equipment, materials, supplies and services; however, no
28 contract on behalf of the university shall be entered into for the
29 purchase of services, materials, equipment and supplies, for doing of
30 any work, or for the hiring of equipment or vehicles, where the sum to
31 be expended exceeds \$12,500.00 or the amount determined by the
32 Governor as provided herein, unless the university shall first publicly
33 advertise for bids and shall award the contract to that responsible
34 bidder whose bid, conforming to the invitation for bids, will be most
35 advantageous to the university, price and other factors considered.
36 Such advertising shall not be required in those exceptions created by
37 the board of trustees of the university, which shall be in substance
38 those exceptions contained in sections 4 and 5 of P.L.1954, c.48
39 (C.52:34-9 and 10) or for the supplying of any product or the
40 rendering of any service by a public utility subject to the jurisdiction
41 of the Board of Public Utilities of this State and tariffs and schedules
42 of the charges, made, charged, or exacted by the public utility for any
43 such products to be supplied or services to be rendered are filed with
44 the said board. Commencing January 1, 1985 and every two years
45 thereafter, the Governor, in consultation with the Department of the
46 Treasury, shall adjust the threshold amount set forth in this paragraph

1 in direct proportion to the rise or fall of the consumer price index for
2 all urban consumers in the New York City and the Philadelphia areas
3 as reported by the United States Department of Labor. The Governor
4 shall notify the university of the adjustment. The adjustment shall
5 become effective on July 1 of the year in which it is reported.

6 This subsection shall not prevent the university from having any
7 work done by its own employees, nor shall it apply to repairs, or to the
8 furnishing of materials, supplies or labor, or the hiring of equipment or
9 vehicles, when the safety or protection of its or other public property
10 or the public convenience requires or the exigency of the university's
11 service will not admit of such advertisement. In such case, the
12 university shall, by resolution passed by the affirmative vote of its
13 board of trustees, declare the exigency or emergency to exist, and set
14 forth in the resolution the nature and approximate amount to be
15 expended; shall maintain appropriate records as to the reason for such
16 awards; and shall report regularly to its board of trustees on all such
17 purchases, the amounts and the reasons therefor;

18 (3) Employ architects to plan buildings; secure bids for the
19 construction of buildings and for the equipment thereof; make
20 contracts for the construction of buildings and for equipment; and
21 supervise the construction of buildings;

22 (4) Manage and maintain, and provide for the payment of all
23 charges on and expenses in respect of, all properties utilized by the
24 university; and

25 (5) Invest certain moneys in such obligations, securities and other
26 investments as the board shall deem prudent in accordance with State
27 and federal law, as follows:

28 In not for profit corporations utilizing income realized from the sale
29 or licensing of intellectual property, as well as the reinvestment of
30 earnings on intellectual property; income realized from the operation
31 of faculty practice plans of the university; and income from overhead
32 grant fund recovery as permitted by federal law;

33 In for profit corporations utilizing income realized from the sale or
34 licensing of intellectual property, as well as the reinvestment of
35 earnings on intellectual property.

36 (o) Borrow money and to secure the same by a mortgage on its
37 property or any part thereof, and to enter into any credit agreement for
38 the needs of the university, as deemed requisite by the board, in such
39 amounts and for such time and upon such terms as may be determined
40 by the board, provided that no such borrowing shall be deemed or
41 construed to create or constitute a debt, liability, or a loan or pledge
42 of the credit or be payable out of property or funds, other than moneys
43 appropriated for that purpose, of the State;

44 (p) Exercise the right of eminent domain, pursuant to the
45 provisions of the "Eminent Domain Act of 1971," P.L.1971, c.361
46 (C.20:3-1 et seq.), to acquire any property or interest therein;

1 (q) Adopt bylaws and make and promulgate such rules, regulations
2 and orders, not inconsistent with the provisions of this act as are
3 necessary and proper for the administration and operation of the
4 university and to implement the provisions of this act;

5 (r) Authorize any new program, educational department or school
6 not inconsistent with the programmatic mission of the institution or
7 approved by the Commission on Higher Education which will require,
8 at the time of establishment or thereafter, an additional expenditure of
9 money, if provision is made therefor by law;

10 (s) Function as a public employer under the "New Jersey
11 Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et
12 seq.) and conduct all labor negotiations, and with the participation of
13 the Governor's Office of Employee Relations act as the chief
14 spokesperson with respect to all matters under negotiation;

15 (t) Sue and be sued in its own name;

16 (u) Retain independent counsel including representation by the
17 Attorney General in accordance with subsection h. of section 6 of
18 P.L.1994, c.48 (C.18A:3B-6);

19 (v) (1) Participate as the general partner or as a limited partner,
20 either directly or through a subsidiary corporation created by the
21 university, in limited partnerships, general partnerships, or joint
22 ventures engaged in the development, manufacture, or marketing of
23 products, technology, scientific information or health care services and
24 create or form for profit or not for profit corporations to engage in
25 such activities; provided that any such participation shall be consistent
26 with the mission of the university and the board shall have determined
27 that such participation is prudent. Nothing herein shall be construed
28 to authorize any change in the legal status of University Hospital;

29 (2) The decision to participate in any activity described in
30 paragraph (1) of subsection (v) of section 6 of P.L.1970, c.102
31 (C.18A:64G-6), including the creation or formation of for profit or not
32 for profit corporations, shall be articulated in the minutes of the Board
33 of Trustees meeting in which the action was approved. A true copy
34 of the minutes shall be delivered to the Governor. No such action
35 shall have affect until 30 days, Saturdays, Sundays and public holidays
36 excepted, after the copy of the minutes shall have been delivered to the
37 Governor. If, within the 30-day period, the Governor returns the
38 minutes of the meeting with a veto of the action taken by the board,
39 the action taken by the board shall be null and void and of no effect;

40 (3) The provisions of P.L.1971, c.182 (C.52:13D-12 et seq.) shall
41 continue to apply to the university, its employees and officers;

42 (4) Nothing herein shall be deemed or construed to create or
43 constitute a debt, liability, or a loan or pledge of the credit or be
44 payable out of property or funds of the State;

45 (5) Funds directly appropriated to the university from the State or
46 derived from the university's academic programs or derived from

1 payment for coverage provided by the self insurance fund for claims
2 accruing prior to the effective date of this act shall not be utilized in
3 the development, manufacture or marketing of products, technology
4 or scientific information;

5 (6) Employees of any joint venture, subsidiary corporation,
6 partnership or other jural entity entered into or owned wholly or in
7 part by the university shall not be deemed public employees;

8 (7) A joint venture, subsidiary corporation, partnership or other
9 jural entity entered into or owned wholly or in part by the university
10 shall not be deemed an instrumentality of the State of New Jersey;

11 (8) Income realized by the university as a result of participation in
12 the development, manufacture or marketing of products, technology,
13 or scientific information may be invested or reinvested pursuant to
14 paragraph (5) of subsection (n) of section 6 of P.L.1970, c.102
15 (C.18A:64G-6) or retained by the board for use in furtherance of any
16 of the purposes of this act;

17 (9) The board shall annually report to the State Treasurer on the
18 operation of all joint ventures, subsidiary corporations, partnerships or
19 such other jural entities entered into or owned wholly or in part by the
20 university;

21 (w) (1) Procure and enter into contracts for any type of insurance
22 and indemnify against loss or damage to property from any cause,
23 including loss of use and occupancy, against death or injury of any
24 person, against employees' liability, against any act of any member,
25 officer, employee or servant of the university, whether part-time,
26 full-time, compensated or non-compensated in the performance of the
27 duties of his office or employment or any other insurable risk. In
28 addition, the university shall carry its own liability insurance or
29 maintain an actuarially sound program of self insurance. Any joint
30 venture, subsidiary corporation, or partnership or such other jural
31 entity entered into or owned wholly or in part by the university shall
32 carry insurance or maintain reserves in such amounts as are determined
33 by an actuary to be sufficient to meet its actual or accrued claims;

34 (2) Moneys in the fund known as the Self-Insurance Trust Fund
35 administered by the State Treasurer shall continue to be available to
36 the university solely to indemnify and defend claims against the
37 university and its employees, officers and servants but only to the
38 extent that the University has elected on behalf of itself and its
39 employees to obtain representation from the Attorney General
40 pursuant to subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6)
41 and such entity or individuals would have been entitled to defense and
42 indemnification pursuant to the "New Jersey Tort Claims Act,"
43 N.J.S.59:1-1 et seq., as a State entity or State employee but for the
44 provision of subsection (t) of section 6 of P.L.1970, c.102
45 (C.18A:64G-6). Any expenditure of such funds shall be made only in
46 accordance with the provisions of the "New Jersey Tort Claims Act,"

1 N.J.S.59:1-1 et seq., including but not limited to the provisions of
2 chapters 10, 10A and 11 of Title 59 of the New Jersey Statutes.
3 Nothing herein shall be construed to authorize the use of the
4 Self-Insurance Trust Fund to indemnify or insure in any way, directly
5 or indirectly the activities of any joint venture, partnership or
6 corporation entered into or created by the university pursuant to
7 paragraphs (1) and (2) of subsection (v) of section 6 of P.L.1970,
8 c.102 (C.18A:64G-6); and

9 (x) Create auxiliary organizations subject to the provisions of
10 P.L.1982, c.16 (C.18A:64-26 et seq.).
11 (cf: P.L.1994, c.48, s.169)

12

13 33. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill is entitled the "New Jersey Prepaid Higher Education
19 Expense Program Act of 1996." It establishes the New Jersey Prepaid
20 Higher Education Expense Program, to provide a mechanism through
21 which the cost of tuition, registration fees, and dormitory residence
22 may be paid in advance of enrollment in a public institution of higher
23 education at a rate lower than the cost at the time of actual enrollment.

24 The bill provides for the creation of the Prepaid Higher Education
25 Expense Board, in but not of, the Department of the Treasury. The
26 board will consist of the Treasurer, the chairman of the Commission
27 on Higher Education, or their designees, and five members appointed
28 by the Governor who will possess knowledge, skill and experience in
29 the areas of accounting, actuary, risk management, or investment
30 management. The board will be responsible for administering the New
31 Jersey Prepaid Higher Education Expense Program.

32 The board, pursuant to the bill, will develop two types of advance
33 payment contracts, one for tuition and registration fees and the other
34 for dormitory residence. The bill sets forth provisions that must be
35 included in both types of advance payment contracts. These
36 provisions include:

37 - the amount of the payment and the number of payments required;

38 - the terms and conditions under which a purchaser will remit
39 payments, including, but not limited to, the dates upon which each
40 payment will be due;

41 - provisions for late payment charges and for default;

42 - provisions for penalty fees for withdrawals from the fund;

43 - the name and date of birth of the qualified beneficiary on whose
44 behalf the contract is drawn and the terms and conditions under which
45 another person may be substituted as the qualified beneficiary;

46 - the name of any person who may cancel the contract;

1 - the terms and conditions under which a contract may be canceled,
2 the name of the person entitled to any refund due as a result of the
3 cancellation, and the amount of refund, if any, due to the person
4 named;

5 - the time limitations, if any, within which the qualified beneficiary
6 must claim benefits through the program; and

7 - other terms and conditions deemed by the board to be necessary
8 or proper.

9 In addition to these general provisions, the bill also requires that
10 each type of advance payment contract include specific provisions.
11 The advance payment contract for tuition and registration fees, for
12 example, will have to include the number of semester credit hours
13 contracted by the purchaser and whether the credit hours will be
14 applied toward a four- year public institution of higher education or a
15 county college. This type of advance payment contract will also
16 include a provision obligating the board to provide to the qualified
17 beneficiary the specified number of semester credit hours, not to
18 exceed the average number of credit hours required for the conference
19 of the degree that corresponds to the plan purchased on behalf of the
20 qualified beneficiary.

21 An advance payment contract for dormitory residence will have to
22 include the number of semesters of dormitory residence contracted by
23 the purchaser. This advance payment contract, similar to the advance
24 payment contract for tuition and registration fees, will have to include
25 a provision obligating the board to provide to a qualified beneficiary
26 the specified number of semesters of dormitory residence, not to
27 exceed the maximum number of semesters of full-time enrollment
28 required for the conference of a baccalaureate degree.

29 Under the bill, the board will be required to make advance payment
30 contracts available for three independent plans, to be known as the
31 county college plan, the university plan, and the dormitory residence
32 plan. Through a county college plan, the advance payment contract
33 will provide prepaid tuition and registration fees for a specified
34 number of undergraduate semester credit hours not to exceed the
35 average number of hours required for the conference of an associate
36 degree. Through a university plan, the advance payment contract will
37 provide prepaid tuition and registration fees for a specified number of
38 undergraduate semester credit hours not to exceed the average
39 number of hours required for the conference of a baccalaureate
40 degree. The cost of participating in each of these plans will be based
41 primarily on the average current and projected tuition and registration
42 fees within the county college system or the four-year public
43 institutions of higher education, respectively, and the number of years
44 expected to elapse between the purchase of the plan and the exercise
45 of the benefits by the qualified beneficiary.

46 Through the dormitory plans, the advance payment contract will

1 provide prepaid housing fees for a maximum of 10 semesters of full-
2 time undergraduate enrollment in a four-year public institution of
3 higher education. These plans are optional, and may be purchased
4 only in conjunction with a university plan. As with the university plan,
5 costs of participation will be based primarily on the average current
6 and projected housing fees within the four-year public institutions of
7 higher education and the number of years expected to elapse between
8 the purchase of the plan and the exercise of the benefits by the
9 qualified beneficiary.

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

12 Under these circumstances, the board will transfer to these institutions
13 an amount not to exceed the redemption value of the advance payment
14 contract within a public institution of higher education. If the costs at
15 the independent institution of higher education is less than the
16 corresponding costs at a public institution of higher education, then
17 the amount transferred may not exceed the actual cost of tuition and
18 registration fees or housing fees.

19 The bill also permits the benefits of an advance payment contract to
20 be applied toward an out-of-state public college or university. To be
21 eligible, these institutions must be not for profit, accredited by a
22 regional accrediting association and confer baccalaureate degrees.
23 Under these circumstances, the board will transfer to these institutions
24 an amount not to exceed the redemption value of the advance payment
25 contract or the original purchase price plus 5% compounded interest,
26 whichever is less, after assessment of a reasonable transfer fees. If the
27 costs at the out-of-state public college or university are less than the
28 calculated amount, then the amount transferred may not exceed the
29 actual cost of tuition and registration fees or housing fees.

30 The bill states that it should not be construed as providing or
31 guaranteeing that a qualified beneficiary of an advance payment
32 contract will be admitted to a public institution of higher education or
33 to a particular one of these institutions, will be allowed to continue
34 enrollment at one of these institutions after admission or will be
35 graduated from one of these institutions.

36 The bill guarantees that in the event that moneys in the fund are
37 insufficient to offset the obligations of the board, then the State will
38 meet those obligations. As a measure of protection for the State, the
39 bill also allows the Commission on Higher Education to promulgate
40 guidelines which will govern the setting of tuition and other fees by
41 the public institutions of higher education.

42 Finally, the bill provides that if the State Treasurer determines that
43 the program is financially infeasible, the State may discontinue the
44 program. In this case a qualified beneficiary who has been accepted
45 by and is enrolled or is within five years of enrollment in an
46 independent institution of higher education or public institution of

1 higher education will be entitled to exercise the benefits for which he
2 has contracted. Other contract holders will receive a refund of the
3 amount paid into the fund plus interest at the prevailing rate.

4

5

6

7

8 Establishes New Jersey Prepaid Higher Education Expense Program
9 and provides for certain State control of tuition increases.