SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 2012

with Senate committee amendments

STATE OF NEW JERSEY

DATED: JUNE 16, 1997

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2012 SCS with amendments.

Senate Bill No. 2012 SCS, as amended, establishes the New Jersey Better Educational Savings Trust (NJBEST) Program in the Higher Education Assistance Authority. The program will provide a mechanism to allow families to plan for the costs of college attendance and to save funds to meet those costs. The program will be administered by the Office of Student Assistance.

The program will be operated as a trust through which the authority, as trustee, will hold accounts for designated beneficiaries. Contributors will make contributions to an account established for beneficiaries for their qualified higher education expenses. The authority will select an investment manager or managers to invest the funds of the trust and the manager will be subject to certain standards stated in the bill. The investment manager may be the Division of Investment in the Department of the Treasury or a private entity.

The program is designed so that it will qualify as a "qualified State tuition program" under the federal Internal Revenue Code. No amount of investment earnings will be included in the federal taxable income of a contributor to, or beneficiary of, the program with respect to any contribution to, or earnings under, the program. When amounts are distributed from the program for qualified educational expenses, the amount of earnings will be included in the taxable income of the beneficiary.

The bill provides that no amount of investment earnings will be included in the taxable income of the contributor to, or beneficiary of, the program with respect to any contribution to, or earnings under, the program under New Jersey's gross income tax law. Unlike the federal tax treatment, the amount of earnings distributed from the program for qualified educational expenses will not be included in either the beneficiary's or contributor's taxable income.

In regard to the principal amount which a contributor pays into the program, if the investment manager is the Division of Investment in the Department of Treasury, the substitute stipulates that in order to assure the availability of the principal contribution, there shall be paid to the authority for deposit in the trust, at the time of distribution, such sums as shall be certified by the chairman of the authority as necessary to provide the principal amount. If the investor is a private entity, the investment of the principal amount contributed must be fully insured by the Federal Deposit Insurance Corporation or other similar entity; account balances and investments would also be limited.

In regard to a designated beneficiary's eligibility for financial aid, the bill provides that the authority will determine a dollar amount, of not less than $25,000, which will not be considered in evaluating a student's financial need. Also, the amount will not reduce any State scholarship or monetary assistance to which the student may be entitled.

Finally, the bill provides in section 9 that the State will contribute an additional $500 to the account of a beneficiary who attends an institution of higher education located within the State if the contributor or the beneficiary is a New Jersey resident and the contributor has participated in the program for at least four years.

COMMITTEE AMENDMENTS:

The committee amended the bill with the approval of the sponsor to: require the investment manager to be subject to the "prudent person" standard of care applicable to the Division of Investment in the Department of the Treasury; require the authority to consider in selecting a manager the impact of fees and costs that would be imposed by the manager or managers on the yield to contributors; delete a provision requiring the authority to promote an investment policy of minimized risk, liquidity and maximization of yield; require the authority to conclude that if a choice of investment managers is offered, it is in the best interest of contributors and will not interfere with the administration of the program; provide that no account balance can exceed $100,000 and no investment in derivatives of eligible securities can be made if the investment manager is a private entity; and any investment by a private entity must be designed to balance prospective payments according to guidelines established.

FISCAL IMPACT:

According to the Office of Student Assistance, the Governor's recommended FY1998 budget contains an appropriation of $350,000 for the Office of Student Assistance (OSA) for the initial administrative costs to start the program. The funds will be used for additional staff and marketing costs. According to OSA, the intent behind this legislation is to make the program self-supporting in the long term, supported by the administrative fees and service charges the bill authorizes the authority to collect.

Additional costs to the State under section 9 of the bill will not be incurred until at least four years after the program has begun and cannot be estimated at this point due to insufficient data on program participation.