

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 2

Session of
1991

INTRODUCED BY JUBELIRER, HOPPER, FISHER, PETERSON, CORMAN,
SHUMAKER, GREENWOOD, MADIGAN, SALVATORE, SHAFFER, HELFRICK,
LOEPER, HOLL, WENGER, GREENLEAF, ANDREZESKI, PUNT, HART,
BRIGHTBILL, BAKER, LEMMOND, RHOADES, BORTNER AND REIBMAN,
JANUARY 15, 1991

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, NOVEMBER 12, 1991

AN ACT

1 ~~Providing for the advance purchase of tuition at certain~~ <—
2 ~~institutions of higher education; establishing the Tuition~~
3 ~~Account Program Bureau within the Treasury Department and~~
4 ~~providing duties for the Treasury Department; establishing~~
5 ~~the Tuition Payment Fund; and providing for tuition account~~
6 ~~payment contracts.~~

7 ~~The General Assembly hereby finds and declares as follows:~~

8 ~~(1) Tuition at institutions of higher education is~~
9 ~~difficult for many to afford and difficult to predict. As a~~
10 ~~result, the ability of individuals and families to plan for~~
11 ~~future educational expenses has been adversely affected.~~

12 ~~(2) It is in the best interest of the people of~~
13 ~~Pennsylvania to foster higher education in order to provide~~
14 ~~well educated citizens.~~

15 ~~(3) It is in the best interest of the people of~~
16 ~~Pennsylvania to encourage State residents to enroll in~~
17 ~~institutions of higher education.~~

~~(4) Providing a mechanism to help assure the higher education of the citizens of this Commonwealth is necessary and desirable for the public health, safety and welfare.~~

~~(5) The purposes of this act are to:~~

~~(i) Provide wide and affordable access to institutions of higher education for the residents of this Commonwealth.~~

~~(ii) Encourage attendance at institutions of higher education and help individuals plan for educational expenses.~~

~~(iii) Provide a program for the advance purchase of tuition as both a means and an incentive for the citizens of this Commonwealth to provide for future higher education expenses.~~

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5 PROVIDING FOR THE ISSUANCE AND SALE OF CERTAIN BONDS; AND

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6 FURTHER PROVIDING FOR DUTIES OF THE PENNSYLVANIA HIGHER
7 EDUCATION ASSISTANCE AGENCY.

8 THE GENERAL ASSEMBLY FINDS AND DECLARES THAT, FOR THE BENEFIT
9 OF THE PEOPLE OF THE COMMONWEALTH OF PENNSYLVANIA, THE CONDUCT
10 AND INCREASE OF THEIR COMMERCE, THE PROTECTION AND ENHANCEMENT
11 OF THEIR WELFARE, THE DEVELOPMENT OF CONTINUED PROSPERITY AND
12 THE IMPROVEMENT OF THEIR HEALTH AND LIVING CONDITIONS, IT IS
13 ESSENTIAL THAT THIS AND FUTURE GENERATIONS OF YOUTH BE GIVEN THE
14 FULLEST OPPORTUNITY TO LEARN AND TO DEVELOP THEIR INTELLECTUAL
15 AND MENTAL CAPACITIES AND SKILLS; AND THAT, TO ACHIEVE THESE
16 ENDS, IT IS OF THE UTMOST IMPORTANCE THAT PENNSYLVANIA RESIDENTS
17 BE PROVIDED WITH INVESTMENT ALTERNATIVES TO ENHANCE THEIR
18 FINANCIAL ACCESS TO INSTITUTIONS OF HIGHER EDUCATION. IT IS THE
19 INTENT OF THIS ACT TO ENCOURAGE ENROLLMENT IN INSTITUTIONS OF
20 HIGHER EDUCATION LOCATED WITHIN PENNSYLVANIA.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 ~~Section 1. Short title.~~

<—

24 ~~This act shall be known and may be cited as the Tuition~~
25 ~~Account Program Act.~~

26 ~~Section 2. Definitions.~~

27 ~~The following words and phrases when used in this act shall~~
28 ~~have the meanings given to them in this section unless the~~
29 ~~context clearly indicates otherwise:~~

30 ~~"Beneficiary." A person who meets the eligibility criteria~~

~~established by this act and by the department and on whose
behalf a purchaser enters into a tuition account payment
contract.~~

~~"Board." The Tuition Account Program Advisory Board.~~

~~"Department." The Treasury Department of the Commonwealth.~~

~~"Fund." The Tuition Payment Fund.~~

~~"Lawful investment." Any of those investments described in
either 24 Pa.C.S. § 8521 (relating to management of fund and
accounts) or 71 Pa.C.S. § 5931 (relating to management of fund
and accounts).~~

~~"Net earnings rate of the fund." The percentage return of
the investment of fund assets after adjusting for any taxes and
operating expenses.~~

~~"Participating institution." Any accredited, degree-granting
college or university which is required to participate in the
tuition account program under section 8.~~

~~"Purchaser." A person, including a natural person,
corporation, association, partnership or other legal entity, who
enters into a tuition account payment contract.~~

~~"Tuition." The total of all fees and charges required for
attendance at an institution of higher education for a full-
time, undergraduate, academic year, excluding charges for room
and board.~~

~~"Tuition account payment contract." A contract entered into
by a purchaser and the department on behalf of the Commonwealth
to provide for the advance purchase of tuition credits for a
beneficiary attending a participating institution.~~

~~"Tuition credits." Credits as determined in section 9(c).~~

~~"Tuition shortfall." The positive difference between the
tuition for the number of tuition credits used at a~~

~~participating institution accepting a beneficiary for enrollment and the tuition payment as determined in section 9(g).~~

~~Section 3. Tuition Account Program Bureau.~~

~~The State Treasurer is directed to establish a bureau within the Treasury Department, which shall be known as the Tuition Account Program Bureau, for the purpose of establishing and administering the tuition account program. The program shall provide for the advance purchase of tuition credits for a beneficiary attending a participating institution.~~

~~Section 4. Tuition Account Program Advisory Board.~~

~~(a) Creation. There is created a Tuition Account Program Advisory Board. The board shall be composed of the State Treasurer, who shall be a nonvoting member, the Chairman of the Board of Directors of the Pennsylvania Higher Education Assistance Agency, the Commissioner of Higher Education within the Department of Education, the Chairman of the Council of Higher Education and the Chancellor of the State System of Higher Education, all of whom shall be ex officio members. There also shall be 12 other members of the board. Of these 12 other members, three shall be appointed by the President pro tempore of the Senate, three shall be appointed by the Speaker of the House of Representatives and six shall be appointed by the Governor. Of the three members appointed by the President pro tempore of the Senate, one must be a member of the Senate and one must be recommended by the Minority Leader of the Senate. Of the three members appointed by the Speaker of the House of Representatives, one must be a member of the House of Representatives and one must be recommended by the Minority Leader of the House of Representatives. The remaining members of the board appointed by the President pro tempore of the Senate~~

~~and the Speaker of the House of Representatives must have knowledge, skill and expertise in financial affairs. Of the six members appointed by the Governor, one must be the president of a State related institution, one must be the president of one of the institutions operating under Article XIX A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, and two must be presidents of private or independent four year, degree granting colleges or universities located within this Commonwealth.~~

~~(b) Terms. Board members appointed by the President pro tempore of the Senate, the Speaker of the House of Representatives and the Governor shall be appointed for terms of four years each. Vacancies shall be filled for the unexpired terms of appointed members of the board in the same manner as original appointments.~~

~~(c) Organizational meeting. The Commissioner of Higher Education shall call the organizational meeting of the board, at which time a chairman shall be selected from among the members. Meetings of the board shall be held at least quarterly or at the call of the chairman.~~

~~(d) Duties. The board shall consider, study and review the work of the Tuition Account Program Bureau, shall advise the department on request and shall make recommendations on its own initiative for the improvement of the tuition account program. The board shall report annually to the Governor and to the General Assembly, and may make such interim reports as are deemed advisable.~~

~~(e) Employees. The department shall have the power and its duty shall be to provide the board with experts, stenographers and assistants as necessary to carry out the work of the board.~~

1 ~~In addition, the board may enlist voluntary assistance as~~
2 ~~available from citizens, research organizations and other~~
3 ~~agencies.~~

4 ~~Section 5. Powers of department.~~

5 ~~In addition to the powers granted by other provisions of this~~
6 ~~act, the department shall have the powers necessary or~~
7 ~~convenient to carry out this act, including, but not limited to,~~
8 ~~the power to:~~

9 ~~(1) Administer the tuition account program and the fund.~~

10 ~~(2) Enter into tuition account payment contracts with~~
11 ~~purchasers.~~

12 ~~(3) Contract and make any arrangements necessary with~~
13 ~~institutions of higher education.~~

14 ~~(4) Pay directly to an institution, upon the receipt of~~
15 ~~appropriate documentation, the funds which the department is~~
16 ~~obligated to transfer to the institution upon a beneficiary's~~
17 ~~use of tuition credits.~~

18 ~~(5) Contract for goods and services, and engage and~~
19 ~~employ personnel, including, but not limited to, the services~~
20 ~~of private consultants, actuaries, managers, legal counsel~~
21 ~~and auditors for rendering professional, managerial and~~
22 ~~technical assistance and advice.~~

23 ~~(6) Solicit and accept gifts, grants, loans and other~~
24 ~~aid from any person, corporation or other entity or from~~
25 ~~Federal, State or local government and participate in any~~
26 ~~Federal, State or local government program, if necessary for~~
27 ~~prudent management.~~

28 ~~(7) Charge and collect administrative fees and charges~~
29 ~~in connection with any transaction, including continued~~
30 ~~participation in the tuition account program.~~

~~(8) Terminate tuition accounts and make refunds.~~

~~(9) Borrow money, with the approval of the Governor, to the extent permitted by Federal law, by making and issuing notes, bonds and other evidences of indebtedness, as necessary to fulfill the department's obligations.~~

~~(10) Restrict the number of participants in the program.~~

~~(11) Adjust the terms of subsequent tuition account payment contracts.~~

~~(12) Solicit answers from the appropriate Federal agencies regarding the application of security laws to the program.~~

~~(13) Limit the times and dates during which tuition account payment contracts may be sold.~~

~~(14) Consider means whereby a purchaser may have installment payments deducted from salary.~~

~~(15) Promulgate regulations.~~

~~Section 6. Tuition Payment Fund.~~

~~(a) Establishment. There is established in the State Treasury a special fund to be known as the Tuition Payment Fund. This fund shall be invested in accordance with this act. All money in the fund is hereby appropriated to the department on a continuing basis to carry out the provisions of this act.~~

~~(b) Administration.—~~

~~(1) The assets of the fund shall be preserved, invested and expended solely pursuant to, and for the purposes set forth in, this act.~~

~~(2) The department shall obtain appropriate actuarial assistance to establish, maintain and certify that the fund is sufficient to defray the tuition account program's obligations and shall annually evaluate, or cause to be~~

1 ~~evaluated, the actuarial soundness of the fund. If the~~
2 ~~department finds a need for additional assets in order to~~
3 ~~preserve actuarial soundness or if the department finds that~~
4 ~~actuarial soundness can be maintained with fewer assets, it~~
5 ~~may adjust the purchase prices of the tuition credits~~
6 ~~calculated under section 9(c)(3) to ensure such soundness.~~

7 ~~(3) The department, in conjunction with the board, shall~~
8 ~~make an annual report to the Governor and the General~~
9 ~~Assembly showing the fund's condition. This report shall~~
10 ~~contain the findings and recommendations of the department~~
11 ~~and the board and the recommendations of any private~~
12 ~~consultant under contract or volunteering services to the~~
13 ~~department or board. The report shall detail actions taken or~~
14 ~~needed to modify the tuition account program to insure the~~
15 ~~fiscal sufficiency of the fund to meet its obligations under~~
16 ~~this act. The report shall address the relationship between~~
17 ~~existing and projected net investment returns and existing~~
18 ~~and projected tuition levels and address the advisability or~~
19 ~~necessity of modifying the authorized investment of fund~~
20 ~~assets, the purchase price of tuition credits, the amount of~~
21 ~~administrative fee or charges or the amount of refunds~~
22 ~~offered upon termination of a tuition account. Further,~~
23 ~~consistent with the goal of providing for the maintenance of~~
24 ~~the fiscal sufficiency of the fund, this report shall detail~~
25 ~~those actions taken or needed to modify the tuition account~~
26 ~~program so that the fund, purchasers and beneficiaries will~~
27 ~~receive favorable treatment for purposes of Federal taxation.~~

28 ~~(c) Composition. The fund shall consist of:~~

29 ~~(1) All payments made by purchasers pursuant to tuition~~
30 ~~account payment contracts and all interest, earnings and~~

1 ~~additions thereto.~~

2 ~~(2) Any other money, public or private, appropriated or~~
3 ~~made available to the department for the fund from any source~~
4 ~~and all interest, earnings and additions thereto.~~

5 ~~(d) Operating and administrative costs. The department~~
6 ~~shall, through the Governor, annually submit to the General~~
7 ~~Assembly a budget covering the operating expenses of the Tuition~~
8 ~~Account Program Bureau and the board. Upon approval by the~~
9 ~~General Assembly in an appropriation bill, expenses as incurred~~
10 ~~by the Tuition Account Program Bureau and the board, commencing~~
11 ~~one year after tuition credits have been offered for sale to the~~
12 ~~public, shall be paid from the investment earnings of the fund.~~

13 ~~(e) Repayment of initial appropriation. The department~~
14 ~~shall repay from the investment earnings of the fund to the~~
15 ~~General Fund the sum of \$200,000 appropriated for the initial~~
16 ~~planning, organization and administration of the tuition account~~
17 ~~program as set forth in section 18. The repayment shall take~~
18 ~~place within a ten year period, which period commences one year~~
19 ~~after tuition credits have been offered for sale to the public.~~

20 ~~Section 7. Investment policies and guidelines.~~

21 ~~(a) General rule. The policies governing the investment of~~
22 ~~the fund shall be directed to obtaining sufficient income to~~
23 ~~meet the Commonwealth's obligations under this act, maintaining~~
24 ~~necessary reserves and covering operating expenses. The~~
25 ~~department, its investment manager and trustee shall not engage~~
26 ~~in any investment practice or activity which entails greater~~
27 ~~risk than necessary to meet these objectives but shall have the~~
28 ~~authority to invest and reinvest the fund in all lawful~~
29 ~~investments.~~

30 ~~(b) Investment manager and trustee. The department may~~

~~1 contract with one or more persons or other legal entities to
2 serve as investment managers and trustees to the department on
3 behalf of the tuition account program. In order to fulfill the
4 objectives of the tuition account program, the investment
5 managers and trustees shall work with the department to create
6 an investment program, to develop investment portfolios and to
7 supervise investments and the investment program selected. The
8 department may require that the investment managers and trustees
9 agree, based on actuarial projections of program costs and
10 expenses supplied by the department, to meet any obligations of
11 the department if, as a result of the imprudent selection or
12 supervision of investments or the investment program by the
13 investment managers or trustees, the tuition payment fund is not
14 fiscally sufficient to enable the department to fulfill its
15 obligations under this act.~~

~~16 Section 8.— Participating institutions.~~

~~17 The following institutions of higher education shall
18 participate in the tuition account program:~~

~~19 (1) Community colleges operating under Article XIX A of
20 the act of March 10, 1949 (P.L.30, No.14), known as the
21 Public School Code of 1949.~~

~~22 (2) Universities comprising the State System of Higher
23 Education.~~

~~24 (3) The following State related institutions:~~

~~25 (i) The Pennsylvania State University.~~

~~26 (ii) The University of Pittsburgh.~~

~~27 (iii) Temple University.~~

~~28 (iv) Lincoln University.~~

~~29 (4) Any institution which is hereafter designated as
30 "State related" by the Commonwealth.~~

~~Section 9. Tuition account program.~~

~~(a) General description. Each payment made pursuant to a tuition account payment contract will purchase tuition credits at one of three standard tuition levels or, at the purchaser's designation, at a specific participating institution. All tuition credits purchased will be held in a beneficiary's account and will be converted to the tuition level of the institution to be attended by the beneficiary. A participating institution attended by a beneficiary shall accept that beneficiary's tuition credits when presented. The department shall pay from the fund to the participating institution the lesser of the actual tuition for the number of tuition credits used or the tuition payment as specified in subsection (g).~~

~~Payments on account of tuition shortfalls shall be made to participating institutions as provided for in section 10.~~

~~(b) Standard tuition levels. The department shall annually establish three standard tuition levels corresponding approximately to the average tuition charges for that year at the Commonwealth's community colleges, at universities in the State System of Higher Education and at State related universities. Any purchaser may buy tuition credits at any designated standard tuition level or at the tuition rate of a specific participating institution.~~

~~(c) Tuition credits. Tuition credits are whole or partial units related to an academic year and are obtained as follows:~~

~~(1) The payment for each tuition purchase shall be divided by either the tuition at a standard tuition level or the tuition at a specific participating institution, as designated by the purchaser.~~

~~(2) For tuition purchases during the period from August~~

~~1 to July 31, tuition rates for the corresponding academic year shall be used.~~

~~(3) If the department, in its discretion, determines that the purchase payment for tuition credits representing a unit of tuition for one academic year at a standard tuition level or at a specific participating institution is to be greater or less than actual tuition for the corresponding year at a standard tuition level or at a specific participating institution, the method of calculating tuition credits in accordance with paragraphs (1) and (2) shall be adjusted accordingly.~~

~~(4) The number of tuition credits calculated in accordance with paragraphs (1), (2) and (3) shall be reduced in a manner determined by the department reasonably to reflect potential investment loss resulting from the time of year when the purchase is made.~~

~~(d) Certifying tuition. On or before July 31, a participating institution shall certify to the department the tuition to be charged by that institution for the academic year beginning on or after August 1 of that year and ending on or before July 31 of the following year; and, at such times as the department shall determine, each participating institution shall certify to the department the tuition charged by that institution for the current or any previous academic year.~~

~~(e) Conversion of tuition credits. Upon request of any purchaser or beneficiary, the department shall convert tuition credits purchased at standard tuition levels to actual tuition at a specific participating institution by multiplying the number of tuition credits purchased each year by the ratio of that academic year's standard tuition level divided by the~~

~~tuition for the same academic year at the designated participating institution. Upon request of the purchaser or beneficiary, the department, following the same procedure, shall convert tuition credits purchased at the tuition rate of a participating institution to the tuition at another participating institution designated in the request. The sum of such conversions shall be the total tuition credits applicable to a specific participating institution.~~

~~(f) Issuance and redemption of certified tuition credits. Upon application, the department shall issue to a purchaser or beneficiary a certified statement of accumulated tuition credits for the payment of all or a portion of a student's tuition for a specific academic year at a designated participating institution. Any participating institution which presents to the department a certified statement of tuition credits for a student accepted for enrollment for a specific academic year shall be paid by the department the lesser of actual tuition for the number of tuition credits used as established by the institution for that academic year or the tuition payment for the academic year calculated as specified in subsection (g).~~

~~(g) Tuition payment. Upon presentation of a certified statement of tuition credits by a participating institution or in anticipation thereof, the department shall calculate the tuition payment for the academic year specified. The tuition payment under this section shall consist of the purchase price of each total annual purchase of tuition credits compounded each year from the year of purchase to the year during which such credits are to be utilized, by the average annual net earnings rate of the fund. The compounded values of annual purchases of tuition credits shall be summed in order of date of purchase~~

~~until sufficient credits for one academic year are obtained.~~

~~(h) Other uses of tuition credits. The department shall permit the use of tuition credits for master's degree and other postbaccalaureate programs at participating institutions, after an appropriate conversion. The department and participating institutions also may agree that tuition credits remaining in a tuition account after tuition is paid may be converted into other educational expense credits to be applied against room, board and other educational expenses. Other educational expense credits shall be determined by an appropriate conversion.~~

~~(i) Course load or credit hours. A beneficiary attending a participating institution may apply tuition credits to a specific academic year at the maximum course load or maximum number of credit hours generally permitted to full time undergraduates at that institution.~~

~~(j) Levy and execution. A tuition account shall not be subject to attachment, levy or execution by any creditor of a purchaser or beneficiary.~~

~~(k) Period of participation. Notwithstanding any of the provisions of this act, a minimum period of four years must elapse between the time the first tuition account contract is entered into on behalf of the beneficiary and the time that tuition credits may be issued and redeemed pursuant to subsection (f).~~

~~(l) Student aid. The value of tuition credits shall not be used in calculating personal asset contribution for determining eligibility and need for student loan programs, student grant programs or other student aid programs administered by any agency of the Commonwealth, except as otherwise may be provided by Federal law.~~

~~(m) Residency. The purchase payment for tuition credits shall be determined with reference to the residency of the beneficiary at the time of purchase. If the residency of the beneficiary changes, there shall be an appropriate conversion of tuition credits to reflect the differential in tuition caused by the change of residency, if any.~~

~~Section 10. Payments on account of tuition shortfalls.~~

~~If tuition shortfalls on account of beneficiaries attending a participating institution remain after payments are made to that institution pursuant to section 9(g) and if such tuition shortfalls are not paid on behalf of the department pursuant to section 7(b), the total shortfall with respect to that institution shall be paid from the fund as a separate payment. The amount of shortfall payments shall be considered in determining the actuarial soundness of the fund as provided for in section 6(b)(2).~~

~~Section 11. Tuition account payment contracts.~~

~~Purchasers buying tuition credits for the use of beneficiaries shall enter into tuition account payment contracts with the department. These contracts shall be in such form as is determined by the department, but shall reflect that the purchase price of tuition credits can be adjusted annually in accordance with sections 6(b)(2) and 9(c)(3).~~

~~Section 12. Eligible beneficiaries.~~

~~Notwithstanding any other eligibility criteria established by the board, the following shall apply:~~

~~(1) In order to be eligible as a beneficiary, a person must be one of the following:~~

~~(i) A resident of this Commonwealth at the time the tuition account payment contract is entered into on the~~

~~person's behalf.~~

~~(ii) A nonresident, if the tuition account payment contract entered into on the person's behalf is purchased by a resident of this Commonwealth, including any legal entity with its principal place of business located within this Commonwealth.~~

~~(2) The purchaser must designate a beneficiary at the time the purchaser enters into a tuition account payment contract.~~

~~(3) The purchaser may substitute for the beneficiary a member of the family of the purchaser or initial beneficiary, upon approval by the department.~~

~~Section 13. Termination and refund.~~

~~(a) Inability to attend a participating or nonparticipating institution. Upon termination of a tuition account, the purchaser or the purchaser's designee shall receive the value of the account under subsection (f) if the account is terminated upon the happening of any of the following:~~

~~(1) The death of the beneficiary.~~

~~(2) The disability of the beneficiary which, in the opinion of the department, would make attendance by the beneficiary at a participating institution impossible or unreasonably burdensome.~~

~~(3) Failure of the beneficiary who, in the opinion of the department, has made a good faith attempt to gain admission to a participating or nonparticipating institution within the time limits imposed by the department.~~

~~(b) Decision to attend a nonparticipating institution. Upon termination of a tuition account as a result of a decision by the beneficiary to attend a nonparticipating institution, the~~

1 ~~department, at the direction of the purchaser or beneficiary and~~
2 ~~upon presentation of proof of the beneficiary's acceptance by~~
3 ~~the nonparticipating institution, shall pay to the institution~~
4 ~~the tuition for the number of tuition credits purchased~~
5 ~~calculated at the standard tuition level or at the tuition for a~~
6 ~~specific participating institution, as designated in the tuition~~
7 ~~account payment contract, or an amount equal to the value of the~~
8 ~~account under subsection (f), whichever is less. Payment under~~
9 ~~this subsection for any one academic year shall not exceed the~~
10 ~~amount of the beneficiary's tuition or other approved~~
11 ~~educational expenses for that year.~~

12 ~~(c) Decision not to attend a participating or~~
13 ~~nonparticipating institution. Upon termination of a tuition~~
14 ~~account as a result of a decision by the beneficiary not to~~
15 ~~attend a participating or nonparticipating institution, within~~
16 ~~time limits determined by the department, the purchaser or the~~
17 ~~purchaser's designee shall receive 90% of the tuition for the~~
18 ~~number of tuition credits purchased calculated at the standard~~
19 ~~tuition level or at the tuition for a specific participating~~
20 ~~institution, as designated in the tuition account payment~~
21 ~~contract, or an amount equal to 90% of the value of the account~~
22 ~~under subsection (f), whichever is less.~~

23 ~~(d) Refunds for other reasons. In circumstances other than~~
24 ~~those set forth in this section, the department shall, by~~
25 ~~regulation, provide for refunds up to but not exceeding the~~
26 ~~amount authorized under subsection (c).~~

27 ~~(e) Fees. The department may impose a fee upon termination~~
28 ~~of the account for administrative costs and deduct the fee from~~
29 ~~the amount otherwise payable.~~

30 ~~(f) Value of account. The value of the account shall be~~

~~calculated by compounding annually each separate payment from the time of payment to the time the account is terminated, at the actual annual net earnings rate of the fund.~~

~~(g) Taxation of refunds. In the event of a refund upon the termination of a tuition account, to the extent the amount of the refund exceeds the sum of the payments, it shall be subject to taxation as income under the laws of this Commonwealth, except when the refund is made pursuant to subsection (b).~~

~~(h) Change of beneficiary. The substitution of the beneficiary of an account pursuant to section 12(3) shall not be deemed a termination of the account for purposes of this section.~~

~~(i) Scholarship. If a beneficiary is awarded a scholarship, the terms of which cover the benefits included in tuition account payment contracts purchased on behalf of the beneficiary, the purchaser shall receive a refund consisting of the tuition for the number of tuition credits purchased calculated at the standard tuition level or at the tuition for a specific participating institution, as designated in the tuition account payment contract, or an amount equal to the value of the account under subsection (f), whichever is less. The refund under this subsection for any one academic year shall not exceed the scholarship for that year.~~

~~Section 14. Construction of act.~~

~~Nothing in this act or in a tuition account payment contract entered into pursuant to this act shall be construed as a promise or guarantee by the department that a person will be admitted to an institution of higher education, will be allowed to continue to attend an institution of higher education after having been admitted or will be graduated from an institution of~~

1 ~~higher education.~~

2 ~~Section 15.—Exemption from security laws.~~

3 ~~Tuition account payment contracts are exempt from any statute~~
4 ~~regulating securities, including the act of December 5, 1972~~
5 ~~(P.L.1280, No.284), known as the Pennsylvania Securities Act of~~
6 ~~1972.~~

7 ~~Section 16.—State tax exemption.~~

8 ~~(a) Property of fund.—The property of the fund and its~~
9 ~~income and operation shall be exempt from all taxation by the~~
10 ~~Commonwealth and its political subdivisions.~~

11 ~~(b) Tuition credits.—The purchase and retention of tuition~~
12 ~~credits and their use shall not be a transaction subject to~~
13 ~~income or property taxation by the Commonwealth or any of its~~
14 ~~political subdivisions.~~

15 ~~Section 17.—Federal taxation.~~

16 ~~The department may take appropriate action in order to obtain~~
17 ~~a determination from the Internal Revenue Service or the Federal~~
18 ~~courts as to whether the purchase and retention of tuition~~
19 ~~credits and their use shall be a transaction which will subject~~
20 ~~purchasers or the income of the fund to Federal taxation and may~~
21 ~~respond to such determination in any manner permitted under this~~
22 ~~act.~~

23 ~~Section 18.—Appropriation.~~

24 ~~The sum of \$200,000 is hereby appropriated from the General~~
25 ~~Fund to the Treasury Department, as a continuing appropriation~~
26 ~~for the initial planning, organization and administration of the~~
27 ~~tuition account program during the period from the effective~~
28 ~~date of this act up to and including the period ending one year~~
29 ~~after tuition credits have been offered for sale to the public.~~

30 ~~Section 19.—Effective date.~~

1 ~~THIS ACT SHALL TAKE EFFECT IMMEDIATELY.~~

2 SECTION 1. SHORT TITLE.

<—

3 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE COLLEGE
4 SAVINGS BOND ACT.

5 SECTION 2. DEFINITIONS.

6 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
7 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
8 CONTEXT CLEARLY INDICATES OTHERWISE:

9 "AGENCY." THE PENNSYLVANIA HIGHER EDUCATION ASSISTANCE
10 AGENCY.

11 "BOND." A CERTIFICATE OR EVIDENCE OF A DEBT ON WHICH THE
12 ISSUING GOVERNMENTAL BODY PROMISES TO PAY THE BONDHOLDERS A
13 SPECIFIED AMOUNT OF INTEREST FOR A SPECIFIED LENGTH OF TIME, AND
14 TO REPAY THE LOAN ON THE EXPIRATION DATE.

15 "COLLEGE SAVINGS BONDS." A CLASS OF BONDS ISSUED BY THE
16 COMMONWEALTH AS ZERO COUPON BONDS PURSUANT TO ANY UNISSUED DEBT
17 AUTHORIZATION AND THE PROVISIONS OF THIS ACT.

18 "INSTITUTION OF HIGHER EDUCATION." ALL PUBLIC AND PRIVATE
19 COLLEGES AND UNIVERSITIES LOCATED WITHIN THIS COMMONWEALTH,
20 INCLUDING, BUT NOT LIMITED TO, STATE-OWNED AND STATE-RELATED
21 COLLEGES AND UNIVERSITIES, MEMBER INSTITUTIONS OF THE STATE
22 SYSTEM OF HIGHER EDUCATION AND COMMUNITY AND JUNIOR COLLEGES.
23 THE TERM DOES NOT INCLUDE ANY EDUCATIONAL INSTITUTION ENGAGED IN
24 SECTARIAN INSTRUCTION, OR ANY PLACE OF RELIGIOUS TEACHING OR
25 WORSHIP.

26 "ISSUING OFFICIALS." THE GOVERNOR, THE AUDITOR GENERAL AND
27 THE STATE TREASURER.

28 "ZERO COUPON BOND." A BOND SOLD AT AN INITIAL PURCHASE PRICE
29 BELOW ITS MATURITY VALUE WHICH DOES NOT ENTITLE ITS HOLDER TO
30 RECEIVE PERIODIC PAYMENTS OF INTEREST BUT WHOSE MATURITY VALUE

1 IS PAYABLE IN ONE PAYMENT ON A FIXED DATE.

2 SECTION 3. ISSUANCE OF COLLEGE SAVINGS BONDS.

3 (A) GENERAL RULE.--IN ORDER TO PROVIDE INVESTORS WITH
4 INVESTMENT ALTERNATIVES TO ENHANCE THEIR FINANCIAL ACCESS TO
5 INSTITUTIONS OF HIGHER EDUCATION LOCATED WITHIN THIS
6 COMMONWEALTH, AND IN FURTHERANCE OF THE PUBLIC POLICY OF THIS
7 ACT, A PORTION OF THE BONDS ISSUED SHOULD BE DESIGNATED AS
8 COLLEGE SAVINGS BONDS. WHERE FEASIBLE, THE ISSUING OFFICIALS
9 SHALL FOLLOW THE RECOMMENDATION OF THE AGENCY AND DESIGNATE THE
10 ISSUE, IN WHOLE OR IN PART, AS COLLEGE SAVINGS BONDS.

11 (B) ANNUAL RECOMMENDATION.--THE AGENCY SHALL ANNUALLY
12 RECOMMEND THE AMOUNT NEEDED TO CARRY OUT THIS ACT AND SHALL SO
13 NOTIFY THE ISSUING OFFICIALS.

14 SECTION 4. NATURE OF BONDS.

15 BONDS TO BE ISSUED AND SOLD AS COLLEGE SAVINGS BONDS SHALL BE
16 DESIGNATED BY THE ISSUING OFFICIALS AS COLLEGE SAVINGS BONDS IN
17 THE PROCEEDINGS AUTHORIZING THE ISSUANCE OF SUCH BONDS. COLLEGE
18 SAVINGS BONDS MAY BE SOLD AT SUCH PRICES AND IN SUCH MANNER AS
19 MAY BE DETERMINED BY THE ISSUING OFFICIALS.

20 SECTION 5. SALE OF COLLEGE SAVINGS BONDS.

21 (A) GENERAL RULE.--COLLEGE SAVINGS BONDS MAY BE SOLD AT
22 COMPETITIVE OR NEGOTIATED SALE, AS DIRECTED BY THE ISSUING
23 OFFICIALS, FOR PRICES AS THE ISSUING OFFICIALS SHALL DETERMINE.
24 HOWEVER, A NEGOTIATED SALE SHALL BE AUTHORIZED ONLY UPON A
25 DETERMINATION BY THE ISSUING OFFICIALS THAT A NEGOTIATED SALE
26 WILL RESULT IN EITHER A MORE EFFICIENT SALE OF COLLEGE SAVINGS
27 BONDS OR GREATER ACCESS TO THE BONDS BY INVESTORS WHO ARE
28 RESIDENTS OF THIS COMMONWEALTH. PRIOR TO THE INITIAL SALE OF THE
29 COLLEGE SAVINGS BONDS, THE ISSUING OFFICIALS SHALL DEVELOP A
30 PLAN THAT WILL INSURE PURCHASING ACCESS TO THE INDIVIDUAL

1 INVESTOR AS WELL AS EQUITABLE GEOGRAPHIC AVAILABILITY TO ALL
2 CITIZENS OF THIS COMMONWEALTH.

3 (B) SUBSCRIPTIONS.--WHETHER COLLEGE SAVINGS BONDS ARE SOLD
4 BY COMPETITIVE OR NEGOTIATED SALE, THE ISSUING OFFICIALS MAY
5 DIRECT THE STATE TREASURER, THE AGENCY, A DEPARTMENT OR AGENCY
6 UNDER THE JURISDICTION OF THE GOVERNOR, OR MAY ENTER INTO ANY
7 AGREEMENT OR AGREEMENTS WITH BANKS, TRUST COMPANIES OR OTHER
8 FIRMS CAPABLE OF PERFORMING SUCH DUTIES, TO ACCEPT SUBSCRIPTIONS
9 AND PAYMENTS FOR THE PURCHASE OF COLLEGE SAVINGS BONDS. AT THE
10 OPTION OF THE ISSUING OFFICIALS, THE SUBSCRIPTIONS SHALL BE
11 FILLED BY THE COLLEGE SAVINGS BOND UNDERWRITERS; OR THE ISSUING
12 OFFICIALS SHALL SELL BONDS TO SUBSCRIBERS RESIDING IN THIS
13 COMMONWEALTH AT MARKET PRICES AND RATES OF ACCRETION AS THE
14 ISSUING OFFICIALS SHALL ESTABLISH.

15 (C) ACCRETION RATES.--COLLEGE SAVINGS BONDS MAY BEAR A FIXED
16 OR VARIABLE ACCRETION RATE. TO THE EXTENT VARIABLE RATE DEBT IS
17 ISSUED, THE ISSUING OFFICIALS ARE EMPOWERED TO ENTER INTO
18 CONTRACTUAL ARRANGEMENTS WITH THIRD PARTIES, WHEREBY SUCH
19 PARTIES AGREE TO ABSORB ACCRETION RATE RISK IN EXCHANGE FOR
20 ASSUMING A FIXED-RATE PAYMENT SCHEDULE OR OTHER CONSIDERATION
21 PURSUANT TO ACCRETION RATE SWAPS, HEDGES AND OTHER FINANCIAL
22 DEVICES, IN ORDER TO REDUCE ACCRETION RATE RISK TO THE
23 COMMONWEALTH. NO AGREEMENT OR ARRANGEMENT WITH THIRD PARTIES TO
24 ABSORB ACCRETION RATE RISK AS DESCRIBED IN THIS SUBSECTION SHALL
25 BE ENTERED INTO UNLESS, IN THE JUDGMENT OF THE STATE TREASURER,
26 ADEQUATE PROVISION HAS BEEN MADE TO COLLATERALIZE OR OTHERWISE
27 PROTECT THE ABILITY OF THE COMMONWEALTH TO REALIZE ITS INTERESTS
28 UNDER THE AGREEMENT OR ARRANGEMENT CONSISTENT WITH THE
29 PROVISIONS OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN
30 AS THE FISCAL CODE.

1 SECTION 6. MAXIMUM BONDS TO BE ISSUED.

2 COLLEGE SAVINGS BONDS SHALL NOT BE ISSUED IN ANY GIVEN FISCAL
3 YEAR IN AN AGGREGATE PRINCIPAL AMOUNT GREATER THAN 1/3 OF THE
4 TOTAL AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS
5 PROJECTED TO BE ISSUED BY THE COMMONWEALTH DURING THAT FISCAL
6 YEAR OR \$100,000,000, WHICHEVER IS GREATER. FOR PURPOSES OF
7 CALCULATING THE AGGREGATE PRINCIPAL AMOUNT OF COLLEGE SAVINGS
8 BONDS FOR PURPOSES OF THIS ACT OR FOR CALCULATING DEBT WITHIN
9 THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY LIMITATION ON THE
10 INCURRING OF DEBT, THE AGGREGATE PRINCIPAL AMOUNT OF ANY
11 DISCOUNT BOND SHALL BE THE AGGREGATE OF THE INITIAL OFFERING
12 PRICES AT WHICH SUCH BONDS ARE OFFERED FOR SALE TO THE PUBLIC,
13 WITHOUT REDUCTION FOR UNDERWRITER'S DISCOUNT OR OTHER EXPENSES.

14 SECTION 7. BOND AMORTIZATION AND MATURITY.

15 THE ISSUING OFFICIALS SHALL PROVIDE FOR THE AMORTIZATION OF
16 DEBT REPRESENTED BY COLLEGE SAVINGS BONDS OVER THE TERM OF THE
17 BONDS AS PRESCRIBED BY THE CONSTITUTION FOR DEBT TO BE AMORTIZED
18 IN SUBSTANTIAL AND REGULAR AMOUNTS. THE FIRST AMORTIZATION SHALL
19 BE DUE PRIOR TO THE EXPIRATION OF A PERIOD EQUAL TO 1/10 OF THE
20 TERM OF THE DEBT. FOR THE PURPOSES OF THIS ACT, BONDS ARE
21 AMORTIZED IN SUBSTANTIAL AND REGULAR AMOUNTS IF THEY MATURE
22 ANNUALLY OR SEMIANNUALLY AND THE LARGEST INITIAL PRINCIPAL
23 AMOUNT SCHEDULED TO MATURE IN ANY ONE BOND YEAR DOES NOT EXCEED
24 AN AMOUNT EQUAL TO THREE TIMES THE AVERAGE OF THE ANNUAL INITIAL
25 PRINCIPAL AMOUNTS FOR ALL OTHER BOND YEARS OF THE COLLEGE
26 SAVINGS BOND ISSUE. WITHIN THE LIMITS IMPOSED BY THE
27 CONSTITUTION AND THIS ACT, THE ISSUING OFFICIALS SHALL ESTABLISH
28 PERIODIC MATURITY AMOUNTS SO AS TO REASONABLY MEET ANTICIPATED
29 DEMAND BY INDIVIDUAL INVESTORS FOR THE VARIOUS MATURITIES; BUT
30 IN NO CASE SHALL A COLLEGE SAVINGS BOND HAVE A MATURITY DATE

1 GREATER THAN 20 YEARS FOLLOWING THE DATE OF ORIGINAL ISSUE.

2 SECTION 8. FINANCIAL AID.

3 NO CONTRIBUTIONS TOWARD THE PURCHASE OF THE FIRST \$25,000 IN
4 MATURITY VALUE OF COLLEGE SAVINGS BONDS SHALL BE CONSIDERED IN
5 EVALUATING THE FINANCIAL SITUATION OF A STUDENT, OR BE DEEMED A
6 FINANCIAL RESOURCE OF, OR A FORM OF FINANCIAL AID OR ASSISTANCE
7 TO, THE STUDENT FOR PURPOSES OF DETERMINING THE ELIGIBILITY OF
8 THE STUDENT FOR ANY SCHOLARSHIP, GRANT OR MONETARY ASSISTANCE
9 AWARDED BY THE AGENCY, THE COMMONWEALTH OR ANY AGENCY THEREOF;
10 NOR SHALL THE FIRST \$25,000 IN MATURITY VALUE OF COLLEGE SAVINGS
11 BONDS PROVIDED FOR A QUALIFIED STUDENT UNDER THIS ACT REDUCE THE
12 AMOUNT OF ANY SCHOLARSHIP, GRANT OR MONETARY ASSISTANCE WHICH
13 THE STUDENT IS ENTITLED TO BE AWARDED BY THE AGENCY, THE
14 COMMONWEALTH OR ANY AGENCY THEREOF AS PROVIDED BY LAW.

15 SECTION 9. APPLICABILITY OF OTHER LAW.

16 EXCEPT AS INCONSISTENT WITH THIS ACT, ALL OTHER PROVISIONS OF
17 LAW RELATING TO DEBT AUTHORIZATION APPLY TO BONDS ISSUED UNDER
18 THIS ACT.

19 SECTION 10. EFFECTIVE DATE.

20 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.