

ASSEMBLY, No. 1622

STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

Sponsored by:

Assemblyman KEVIN J. O'TOOLE

District 21 (Essex and Union)

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SYNOPSIS

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

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 12/8/2000)

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
35 established pursuant to section 5 of this act.

36 "Independent institution of higher education" means those
37 institutions of higher education incorporated and located in this State,
38 which, by virtue of law or character or license, are nonprofit
39 educational institutions empowered to grant academic degrees and
40 which provide a level of education which is equivalent to the education
41 provided by the State's public institutions of higher education as
42 attested by the receipt of and continuation of regional accreditation by
43 the Middle States Association of Colleges and Schools, and which are

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 eligible to receive State aid under the provisions of the Constitution of
2 the United States and the Constitution of the State of New Jersey.
3 "Independent institution of higher education" does not include any
4 educational institution dedicated primarily to the preparation or
5 training of ministers, priests, rabbis, or other professional persons in
6 the field of religion.

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

9 "Qualified beneficiary" means:

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

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

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

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

23 "Registration fees" means any fees imposed by an institution of
24 higher education, in addition to tuition, required for matriculation at
25 the institution.

26

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

40

41 5. (New Section) There is created within the Department of the
42 Treasury the Prepaid Higher Education Expense Trust Fund. The fund
43 shall consist of State appropriations, moneys acquired from other
44 governmental or private sources, and moneys remitted in accordance
45 with advance payment contracts. Dividends, interest, and gains
46 accruing to the fund shall increase the total funds available for the

1 program. Any funds associated with contracts terminated pursuant to
2 section 15 of this act or with canceled contracts for which refunds
3 have not been claimed shall increase the total funds available for the
4 program. However, the board shall establish procedures for notifying
5 purchasers who cancel a contract of any unclaimed refund and shall
6 establish a time period after which a refund may not be claimed.

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

10
11 6. (New Section) The assets of the fund shall be maintained,
12 invested, and expended solely for the purposes of this act and shall not
13 be loaned, transferred, or otherwise used by the State for any purpose
14 other than the purposes of this act. This section shall not be construed
15 to prohibit the board from investing in, by purchase or otherwise,
16 bonds, notes, or other obligations of the State or an agency or
17 instrumentality of the State. Unless otherwise specified by the board,
18 assets of the fund shall be expended in the following order of priority:

19 a. to make payments to institutions of higher education on behalf
20 of qualified beneficiaries;

21 b. to make refunds upon cancellation of advance payment
22 contracts; and

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

24
25 7. a. (New Section) The program shall be administered by the
26 Prepaid Higher Education Expense Board. The board is established
27 as a body corporate and politic in the Executive Branch of State
28 Government and for the purposes of complying with the provisions of
29 Article V, Section IV, paragraph 1 of the New Jersey Constitution, the
30 board is allocated in but not of the Department of the Treasury, but
31 notwithstanding this allocation, the board shall be independent of any
32 supervision or control by the department or by any board or officer
33 thereof.

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

1 two years, and two members to serve for three years. Any member
2 appointed to fill a vacancy on the board shall be appointed in a like
3 manner and shall serve until a successor qualifies. Members of the
4 board shall serve without compensation but shall be reimbursed for any
5 necessary expenses incurred in the performance of their duties.

6
7 8. (New Section) The Governor shall appoint a member of the
8 board to serve as the initial chair of the board. Thereafter, the board
9 shall elect a chair annually. The board shall annually elect a board
10 member to serve as vice-chair and shall designate a secretary-treasurer
11 who need not be a member of the board. The secretary-treasurer shall
12 keep a record of the proceedings of the board and shall be the
13 custodian of all printed material filed with or by the board and of its
14 official seal. Notwithstanding the existence of vacancies on the board,
15 a majority of the members shall constitute a quorum. The board shall
16 take no official action in the absence of a quorum. The board shall
17 meet, at a minimum, on a quarterly basis at the call of the chair.

18
19 9. (New Section) The board shall have the powers necessary or
20 proper to carry out the provisions of this act, including, but not limited
21 to, the power to:

22 a. appoint an executive director to serve as the chief administrative
23 and operational officer of the board and to perform other duties
24 assigned by the board;

25 b. adopt an official seal and rules;

26 c. sue and be sued;

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

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

30 f. invest funds not required for immediate disbursement;

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

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

35 i. require a reasonable length of State residence for qualified
36 beneficiaries;

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

42 k. segregate contributions and payments to the fund into various
43 accounts;

44 l. contract for necessary goods and services, employ necessary
45 personnel, and engage the services of private consultants, actuaries,
46 managers, legal counsel, and auditors for administrative or technical

1 assistance;

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

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

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

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

14 q. delineate the terms and conditions under which payments may
15 be withdrawn from the fund and impose reasonable fees and charges
16 for withdrawals. The terms and conditions shall be specified within
17 the advance payment contract;

18 r. provide for the receipt of contributions in lump sums or
19 installment payments;

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

22 t. require that purchasers of advance payment contracts verify,
23 under oath, any requests for contract conversions, substitutions,
24 transfers, cancellations, refund requests, or contract changes of any
25 nature.

26

27 10. (New Section) The board shall administer the fund in a manner
28 that is sufficiently actuarially sound to defray the obligations of the
29 program. The board shall annually evaluate or cause to be evaluated
30 the actuarial soundness of the fund. If the board determines a need for
31 additional assets in order to preserve actuarial soundness, the board
32 may adjust the terms of subsequent advance payment contracts to
33 ensure soundness.

34

35 11. (New Section) a. The board, acting with the approval of the
36 State Treasurer, shall establish a comprehensive investment plan for
37 the purposes of this act. The comprehensive investment plan shall
38 specify the investment policies to be utilized by the board in its
39 administration of the fund. The board may place assets of the fund in
40 savings accounts or use the funds to purchase fixed or variable life
41 insurance or annuity contracts, securities, evidence of indebtedness, or
42 other investment products, pursuant to the comprehensive investment
43 plan and in such proportions as may be designated or approved under
44 that plan. The insurance, annuity, savings, or investment products
45 shall be underwritten and offered in compliance with the applicable
46 federal and State laws and regulations and by persons who are duly

1 authorized by applicable federal and State authorities. Within the
2 comprehensive investment plan, the board may authorize investment
3 vehicles, or products incident thereto, as may be available or offered
4 by qualified companies or persons.

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

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

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

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

46 f. The board may make available insurance coverage written

1 exclusively for the purpose of protecting advance payment contracts,
2 and the purchasers or beneficiaries thereof, which may be issued in the
3 form of a group term life policy to purchasers of advance payment
4 contracts.

5
6 12. (New Section) The board shall develop advance payment
7 contracts for tuition and registration fees and advance payment
8 contracts for dormitory residence. Advance payment contracts shall
9 be exempt from the provisions of Subtitle 3 of Title 17 of the Revised
10 Statutes and Subtitle 3 of Title 17B of the New Jersey Statutes. The
11 board may request assistance from the Office of the Attorney General
12 in the development of the advance payment contracts. The contents
13 of both types of contracts shall include, but not be limited to, the
14 following:

- 15 a. the amount of the payments and the number of payments
16 required from a purchaser;
17 b. the terms and conditions under which purchasers are required
18 to remit payments, including, but not limited to, the date or dates upon
19 which each payment is due;
20 c. provisions for late payment charges and for default;
21 d. provisions for penalty fees for withdrawals from the fund;
22 e. the name and date of birth of the qualified beneficiary on whose
23 behalf the contract is drawn and the terms and conditions under which
24 another person may be substituted as the qualified beneficiary;
25 f. the name of any person who may cancel the contract. The terms
26 of the contract shall specify whether the contract may be canceled by
27 the purchaser, the qualified beneficiary, a specific designated person,
28 or any combination of these persons;
29 g. the terms and conditions under which a contract may be
30 canceled, the name of the person entitled to any refund due as a result
31 of the cancellation, and the amount of refund, if any, due to the
32 person named;
33 h. the time limitations, if any, within which the qualified beneficiary
34 is required to claim benefits through the program; and
35 i. other terms and conditions deemed by the board to be necessary
36 or proper.

37
38 13. (New Section) In addition to the provisions of section 12 of
39 this act, an advance payment contract for tuition and registration fees
40 shall include, but not be limited to, the following:

- 41 a. the number of semester credit hours contracted by the purchaser;
42 b. whether the contracted credit hours are to be applied toward a
43 four-year public institution of higher education or a county college;
44 c. the assumption of a contractual obligation by the board to the
45 qualified beneficiary to provide for a specified number of semester
46 credit hours of undergraduate instruction at a public institution of

1 higher education, not to exceed the average number of credit hours
2 required for the conference of the degree that corresponds to the plan
3 purchased on behalf of the qualified beneficiary.

4
5 14. (New Section) In addition to the provisions of section 12 of
6 this act, an advance payment contract for dormitory residence shall
7 include, but not be limited to, the following:

8 a. the number of semesters of dormitory residence contracted by
9 the purchaser; and

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

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

29
30 16. (New Section) A refund provided pursuant to of subsection g.
31 of section 12 of this act, shall not exceed the amount paid into the
32 fund by the purchaser, except as provided in this section. Refunds
33 may exceed the amount paid into the fund in the following
34 circumstances:

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

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

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

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

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

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

36 b. Through the university plan, the advance payment contract shall
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 participation in the university plan shall be based
41 primarily on the current and projected tuition and registration fees of
42 the four-year public institutions of higher education and the number
43 of years expected to elapse between the purchase of the plan on
44 behalf of a qualified beneficiary and the exercise of the benefits
45 provided in the plan by the beneficiary. Qualified beneficiaries shall
46 bear the cost of any laboratory fees associated with enrollment in

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

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

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

43 e. A qualified beneficiary may apply a county college plan,
44 university plan, or dormitory residence plan toward any eligible
45 independent institution of higher education. The board shall transfer
46 or cause to have transferred to the eligible independent institution of

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

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

30

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 21. (New Section) The State or any State agency, county,
2 municipality, or other political subdivision may, by contract or
3 collective bargaining agreement, agree with any employee to remit
4 payments toward advance payment contracts through payroll
5 deductions made by the appropriate officer or officers of the State,
6 State agency, county, municipality, or political subdivision. The
7 payments shall be held and administered in accordance with this act.
8

9 22. (New Section) Nothing in this act shall be construed as a
10 promise or guarantee that a qualified beneficiary shall be admitted to
11 a public institution of higher education or to a particular public
12 institution of higher education, shall be allowed to continue
13 enrollment at a public institution of higher education after admission,
14 or shall be graduated from a public institution of higher education.
15

16 23. (New Section) The State shall agree to meet the obligations
17 of the board to qualified beneficiaries, if moneys in the fund fail to
18 offset the obligations of the board. The Legislature shall appropriate
19 to the Prepaid Higher Education Expense Trust Fund the amount
20 necessary to meet the obligations of the board to qualified
21 beneficiaries.
22

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

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

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

38 a. To develop an institutional plan and to determine the programs
39 and degree levels to be offered by the institution consistent with this
40 plan and the institution's programmatic mission;

41 b. To have authority over all matters concerning the supervision
42 and operations of the institution including fiscal affairs, the
43 employment and compensation of staff not classified under Title 11A
44 of the New Jersey Statutes, and capital improvements in accordance
45 with law;

46 c. To set tuition and fees; however, prior to the date of the

- 1 adoption of a tuition or fee schedule or an overall institutional budget,
2 and with reasonable notice thereof, the governing board shall conduct
3 a public hearing at such times and places as will provide those
4 members of the college community who wish to testify with an
5 opportunity to be heard. The tuition and fees shall be set according to
6 guidelines promulgated by the New Jersey Commission on Higher
7 Education to accommodate the provisions of the New Jersey Prepaid
8 Higher Education Expense Program established pursuant to section 4
9 of P.L., c. (C.)(now pending before the Legislature as this bill);
- 10 d. To establish admission standards and requirements and standards
11 for granting diplomas, certificates and degrees;
- 12 e. To recommend for appointment by the Governor, members to
13 the institution's governing board. The recommendation shall be made
14 with regard to the mission of the institution and the diversity of the
15 community to be served;
- 16 f. To have final authority to determine controversies and disputes
17 concerning tenure, personnel matters of employees not classified under
18 Title 11A of the New Jersey Statutes, and other issues arising under
19 Title 18A of the New Jersey Statutes involving higher education
20 except as otherwise provided herein. Any hearings conducted pursuant
21 to this section shall conform to the requirements of the
22 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
23 seq.). The final administrative decision of a governing board of a
24 public institution of higher education is appealable to the Superior
25 Court, Appellate Division;
- 26 g. To invest and reinvest the funds of the institution; however,
27 institutions which invest the funds of the institution through the
28 Director of the Division of Investment in the Department of the
29 Treasury on or before the effective date of this act shall continue to do
30 so, unless this requirement is waived by the State Treasurer on an
31 annual basis, which waiver shall not be unreasonably withheld;
- 32 h. To retain legal counsel of the institution's choosing. State
33 entities may choose representation by the Attorney General; however,
34 as to claims of a tortious nature, the institution shall elect within
35 75 days of the effective date of this act whether it, and its employees,
36 shall be represented in all such matters by the Attorney General. If the
37 institution elects not to be represented by the Attorney General, it shall
38 be considered and its employees considered employees of a sue and be
39 sued entity for the purposes of the "New Jersey Tort Claims Act" only.
40 The institution shall be required in that circumstance to provide its
41 employees with defense and indemnification consistent with the terms
42 and conditions of the Tort Claims Act in lieu of the defense and
43 indemnification that such employees would otherwise seek and be
44 entitled to from the Attorney General pursuant to N.J.S.59:10-1 et
45 seq. and P.L.1972, c.48 (C.59:10A-1 et seq.);
- 46 i. To be accountable to the public for fulfillment of the institution's

1 mission and Statewide goals and for effective management of the
2 institution;

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

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

9 l. To have prepared an annual independent financial audit, which
10 audit and any management letters regarding that audit shall be deemed
11 public documents.

12 These powers and duties are in addition to and not a limitation of
13 the specific powers and duties provided for the governing board of
14 each public institution under chapters 64, 64A, 64G or 64E of Title
15 18A of the New Jersey Statutes. If the provisions of this section are
16 inconsistent with these specific powers and duties, the specific powers
17 and duties shall govern.

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

19

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

22 14. The commission shall be responsible for:

23 a. Statewide planning for higher education including research on
24 higher education issues and the development of a comprehensive
25 master plan, including, but not limited to, the establishment of new
26 institutions, closure of existing institutions, and consolidation of
27 institutions, which plan shall be long-range in nature and regularly
28 revised and updated. The council may request the commission to
29 conduct a study of a particular issue. The commission may require
30 from institutions of higher education such reports or other information
31 as may be necessary to enable the commission to perform its duties;

32 b. advocacy on behalf of higher education including informing the
33 public of the needs and accomplishments of higher education in New
34 Jersey;

35 c. making recommendations to the Governor and Legislature on
36 higher education initiatives and incentive programs of Statewide
37 significance;

38 d. final administrative decisions over institutional licensure and
39 university status giving due consideration to the accreditation status
40 of the institution. The commission shall furnish the Presidents' Council
41 with any pertinent information compiled on behalf of the subject
42 institution and the council shall then make recommendations to the
43 commission concerning the licensure of the institution or university
44 status within sixty days of receipt of the information;

45 e. adopting a code of ethics applicable to institutions of higher
46 education;

- 1 f. final administrative decisions over new academic programs that
2 go beyond the programmatic mission of the institution and final
3 administrative decisions over a change in the programmatic mission of
4 an institution;
- 5 g. reviewing requests for State support from the institutions in
6 relation to the mission of the institution and Statewide goals and
7 proposing a coordinated budget policy statement to the Governor and
8 Legislature;
- 9 h. communicating with the State Board of Education and
10 Commissioner of Education to advance public education at all levels
11 including articulation between the public schools and higher education
12 community;
- 13 i. applying for and accepting grants from the federal government,
14 or any agency thereof, or grants, gifts or other contributions from any
15 foundation, corporation, association or individual, and complying with
16 the terms, conditions and limitations thereof, for the purpose of
17 advancing higher education. Any money so received may be expended
18 by the commission upon warrant of the director of the Office of
19 Management and Budget in the Department of the Treasury on
20 vouchers certified by the executive director of the commission;
- 21 j. acting as the lead agency of communication with the federal
22 government concerning higher education issues;
- 23 k. exercising all of the powers and duties previously exercised by
24 the Board of Higher Education, the Department of Higher Education,
25 and the Chancellor of Higher Education, under the "New Jersey
26 Higher Education Building Construction Bond Act of 1971,"
27 P.L.1971, c.164, the "New Jersey Medical Education Facilities Bond
28 Act of 1977," P.L.1977, c.235, the "Jobs, Science and Technology
29 Bond Act of 1984," P.L.1984, c.99 and the "Jobs, Education and
30 Competitiveness Bond Act of 1988," P.L.1988, c.78, the "Higher
31 Education Equipment Leasing Fund Act," P.L.1993, c.136, the
32 "Higher Education Facilities Trust Fund Act," P.L.1993, c.375 and the
33 "N.J.CLASS Loan Program," P.L.1991, c.268; [and]
- 34 l. exercising any other power or responsibility necessary in order
35 to carry out the provisions of this act; and
- 36 m. preparing guidelines for the use of governing boards of public
37 institutions of higher education in setting tuition and fees, in order to
38 accommodate the provisions of the New Jersey Prepaid Higher
39 Education Expense Program established pursuant to section 4 of
40 P.L. , c. (C.)(now pending before the Legislature as this bill).
41 (cf: P.L.1994, c.48, s.14)

42

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

44 18A:64-6. The board of trustees of a State college shall have
45 general supervision over and shall be vested with the conduct of the
46 college. It shall have the power and duty to:

- 1 a. Adopt and use a corporate seal;
- 2 b. Determine the educational curriculum and program of the
3 college consistent with the programmatic mission of the institution or
4 approved by the Commission on Higher Education;
- 5 c. Determine policies for the organization, administration and
6 development of the college;
- 7 d. Study the educational and financial needs of the college;
8 annually acquaint the Governor and Legislature with the condition of
9 the college; and prepare and present the annual budget to the
10 Governor, the Division of Budget and Accounting in the Department
11 of the Treasury and the Legislature in accordance with law;
- 12 e. Disburse all moneys appropriated to the college by the
13 Legislature and all moneys received from tuition, fees, auxiliary
14 services and other sources;
- 15 f. Direct and control expenditures and transfers of funds
16 appropriated to the college and tuition received by the college, in
17 accordance with the provisions of the State budget and appropriation
18 acts of the Legislature, reporting changes and additions thereto and
19 transfers thereof to the Director of the Division of Budget and
20 Accounting in the State Department of the Treasury 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. All accounts of the college shall
24 be subject to audit by the State at any time;
- 25 g. In accordance with the provisions of the State budget and
26 appropriation acts of the Legislature, appoint and fix the compensation
27 of a president of the college, who shall be the executive officer of the
28 college and an ex officio member of the board of trustees, without
29 vote, and shall serve at the pleasure of the board of trustees;
- 30 h. Notwithstanding the provisions of Title 11, Civil Service, of the
31 Revised Statutes, upon nomination by the president appoint a treasurer
32 and such deans and other professional members of the academic,
33 administrative and teaching staffs as defined in section 13 of P.L.1986,
34 c.42 (C.18A:64-21.2) as shall be required and fix their compensation
35 and terms of employment in accordance with salary ranges and policies
36 which shall prescribe qualifications for various classifications and shall
37 limit the percentage of the educational staff that may be in any given
38 classification;
- 39 i. Upon nomination by the president, appoint, remove, promote and
40 transfer such other officers, agents or employees as may be required
41 for carrying out the purposes of the college and assign their duties,
42 determine their salaries and prescribe qualifications for all positions,
43 all in accordance with the provisions of Title 11, Civil Service, of the
44 Revised Statutes;
- 45 j. Grant diplomas, certificates and degrees;
- 46 k. Pursuant to the provisions of the "State College Contracts Law,"

1 P.L.1986, c.43 (C.18A:64-52 et seq.) enter into contracts and
2 agreements for the purchase of lands, buildings, equipment, materials,
3 supplies and services; enter into contracts and agreements with the
4 State or any of its political subdivisions or with the United States, or
5 with any public body, department or other agency of the State or the
6 United States or with any individual, firm, or corporation, which are
7 deemed necessary or advisable by the board for carrying out the
8 purposes of the college;

9 l. If necessary, take and condemn land and other property in the
10 manner provided by the "Eminent Domain Act of 1971," P.L.1971,
11 c.361 (C.20:3-1 et seq.), whenever authorized by law to purchase land
12 or other property;

13 m. Adopt, after consultation with the president and faculty, bylaws
14 and make and promulgate such rules, regulations and orders, not
15 inconsistent with the provisions of this article, that are necessary and
16 proper for the administration and operation of the college and the
17 carrying out of its purposes;

18 n. Establish fees for room and board sufficient for the operation,
19 maintenance, and rental of student housing and food service facilities;

20 o. Fix and determine tuition rates and other fees to be paid by
21 students. The tuition and fees shall be set according to guidelines
22 promulgated by the New Jersey Commission on Higher Education to
23 accommodate the provisions of the New Jersey Prepaid Higher
24 Education Expense Program established pursuant to section 4 of
25 P.L. , c. (C.)(now pending before the Legislature as this bill);

26 p. Accept from any government or governmental department,
27 agency or other public or private body or from any other source grants
28 or contributions of money or property, which the board may use for or
29 in aid of any of its purposes;

30 q. Acquire by gift, purchase, condemnation or otherwise, own,
31 lease, dispose of, use and operate property, whether real, personal or
32 mixed, or any interest therein, which is necessary or desirable for
33 college purposes;

34 r. Employ architects to plan buildings; secure bids for the
35 construction of buildings and for the equipment thereof; make
36 contracts for the construction of buildings and for equipment; and
37 supervise the construction of buildings;

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

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

46 u. Authorize any new program, educational department or school

1 consistent with the institution's programmatic mission or approved by
2 the commission;

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

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

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

11

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

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

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

25

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

27 18A:64A-12. For the effectuation of the purposes of this chapter,
28 the board of trustees of a county college in addition to such other
29 powers expressly granted to it by law, is hereby granted the following
30 powers:

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

32 b. To adopt and use a corporate seal;

33 c. To sue and be sued;

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

37 e. To appoint and fix the compensation and term of office of a
38 president of the college who shall be the executive officer of the
39 college and an ex officio member of the board of trustees;

40 f. To appoint, upon nomination of the president, members of the
41 administrative and teaching staffs and fix their compensation and terms
42 of employment subject to the provisions of N.J.S.18A:64A-13;

43 g. To appoint or employ such other officers, agents and employees
44 as may be required to carry out the provisions of this chapter and to
45 fix and determine their qualifications, duties, compensation, terms of
46 office and all other conditions and terms of employment and retention;

- 1 h. To fix and determine tuition rates and other fees to be paid by
2 students. The tuition and fees shall be set according to guidelines
3 promulgated by the New Jersey Commission on Higher Education to
4 accommodate the provisions of the New Jersey Prepaid Higher
5 Education Expense Program established pursuant to section 4 of
6 P.L. , c. (C.)(now pending before the Legislature as this bill);
- 7 i. To grant diplomas, certificates or degrees;
- 8 j. To enter into contracts and agreements with the State or any of
9 its political subdivisions or with the United States, or with any public
10 body, department or other agency of the State or the United States or
11 with any individual, firm or corporation which are deemed necessary
12 or advisable by the board for carrying out the provisions of this
13 chapter;
- 14 k. To accept from any government or governmental department,
15 agency or other public or private body or from any other source grants
16 or contributions of money or property which the board may use for or
17 in aid of any of its purposes;
- 18 l. To acquire (by gift, purchase, condemnation or otherwise), own,
19 lease, use and operate property, whether real, personal or mixed, or
20 any interest therein, which is necessary or desirable for college
21 purposes;
- 22 m. To determine that any property owned by the county college is
23 no longer necessary for college purposes and to sell the same at such
24 price and in such manner and upon such terms and conditions as shall
25 be established by the board;
- 26 n. To exercise the right of eminent domain, pursuant to the
27 provisions of Title 20, Eminent Domain, of the Revised Statutes, to
28 acquire any property or interest therein;
- 29 o. To make and promulgate such rules and regulations, not
30 inconsistent with the provisions of this chapter or with the rules and
31 regulations promulgated hereunder that are necessary and proper for
32 the administration and operation of a county college and to implement
33 the provisions of this chapter;
- 34 p. To exercise all other powers, not inconsistent with the
35 provisions of this chapter or with the rules and regulations
36 promulgated hereunder which may be reasonably necessary or
37 incidental to the establishment, maintenance and operation of a county
38 college; and
- 39 q. To establish and maintain a dedicated reserve fund for minor
40 capital needs which in any given year shall not exceed 3% of the
41 replacement value of the college's physical plant.
42 (cf: P.L.1994, c.48, s.128)
- 43
- 44 30. Section 8 of P.L.1982, c.42 (C.18A:64A-57) is amended to
45 read as follows:
- 46 8. The board of trustees shall have general supervision over and be

- 1 vested with the conduct of the college. It shall have the authority and
2 responsibility to:
- 3 a. Adopt and use a corporate seal;
 - 4 b. Sue or be sued;
 - 5 c. Determine the educational curriculum and program of the
6 college;
 - 7 d. With the advice and consent of the board of governors, upon
8 expiration of the term of the current president of the private
9 institution, appoint and fix the compensation and term of office of a
10 president of the college, who shall be the executive officer of the
11 college;
 - 12 e. Appoint, upon nomination of the president, members of the
13 administrative and teaching staff and fix their compensation and terms
14 of employment, subject to the provisions of general law;
 - 15 f. Employ other officers, agents and employees, as may be required
16 to carry out the provisions of this act and fix and determine their
17 qualifications, duties, compensation, terms of office and all other
18 conditions and terms of employment;
 - 19 g. Fix and determine tuition rates and other fees to be paid by
20 students. The tuition and fees shall be set according to guidelines
21 promulgated by the New Jersey Commission on Higher Education to
22 accommodate the provisions of the New Jersey Prepaid Higher
23 Education Expense Program established pursuant to section 4 of
24 P.L. , c. (C.)(now pending before the Legislature as this bill);
 - 25 h. Grant diplomas, certificates or degrees;
 - 26 i. Enter into contracts and agreements with the State or any of its
27 political subdivisions or with the United States, or with any public
28 body, department or other agency of the county, State or United
29 States, or with any individual firm or corporation, which is deemed
30 necessary or advisable by the board for carrying out the provisions of
31 this act;
 - 32 j. Accept from any government or governmental department,
33 agency or other public or private body or from any other source grants
34 or contributions of money or property, which the board of trustees
35 may use for its purposes;
 - 36 k. Disburse all moneys appropriated to the college by the county
37 and State, moneys received from tuition, fees, auxiliary services and
38 other sources, and from or by the direction of the board of governors;
 - 39 l. Direct and control the expenditures of the college as to funds
40 received from the board of governors and other sources in accordance
41 with the terms of any applicable trusts, gifts, bequests, or other special
42 provisions;
 - 43 m. Acquire by gift, purchase, condemnation or otherwise, own,
44 lease, use and operate property, whether real, personal or mixed, or
45 any interest therein, which is necessary or desirable for college
46 purposes;

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

5 o. Make and promulgate rules and regulations not inconsistent with
6 the provisions of general law or of this act or with the rules and
7 regulations promulgated hereunder that are necessary and proper for
8 the administration or operation of the county college;

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

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

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

17
18 31. Section 7 of P.L.1995, c.400 (C.18A:64E-18) is amended to
19 read as follows:

20 7. The board of trustees of the university shall have general
21 supervision over and be vested with the conduct, control, management
22 and administration of the university. It shall have the authority and
23 responsibility to:

24 a. Adopt, use, and modify, as it deems appropriate, its corporate
25 seal;

26 b. Determine the policies for the organization, administration and
27 development of the university;

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

35 d. Study the educational and financial needs of the university,
36 annually acquaint the Governor and Legislature with the condition of
37 the university, and prepare and submit an annual request for
38 appropriation to the Division of Budget and Accounting in the
39 Department of the Treasury in accordance with law;

40 e. Disburse all moneys appropriated to the university by the
41 Legislature and thereafter provided the university and disburse all
42 moneys received from tuition, fees, auxiliary services and other
43 sources;

44 f. Direct and control expenditures and transfers of funds
45 appropriated and provided by the State through its legislative and
46 executive branches and as to funds received from other sources, direct

1 and control expenditures and transfers in accordance with the terms of
2 any applicable trusts, gifts, bequests, or other special provisions. The
3 university shall annually report changes and additions thereto and
4 transfers thereof to the Director of the Division of Budget and
5 Accounting in the Department of the Treasury. All accounts of the
6 university shall be subject to audit by the State at any time;

7 g. Appoint and fix the compensation and term of office of a
8 president of the university, who, as the executive officer of the
9 university, shall be assigned that authority and delegated those duties
10 that the board, consistent with law and duly adopted bylaws of the
11 board, determines are in keeping with the purposes of this act and in
12 the best interests of the university;

13 h. Consistent with the provisions of its budget, this act and any and
14 all controlling collective bargaining agreements, have the power, upon
15 nomination or recommendation of the president, to appoint, remove,
16 promote and transfer all other officers, agents, or employees which
17 may be required to carry out the provisions of this act and prescribe
18 qualifications for those positions, and assign requisite duties and
19 determine and fix respective compensation for those positions in
20 accordance with duly adopted salary program parameters;

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

32 j. Borrow money for the needs of the university, as deemed
33 requisite by the board, in such amounts, for such time and upon such
34 terms as may be determined by the board; provided that no such
35 borrowing shall be deemed or construed to create or constitute a debt,
36 liability, or a loan or pledge of the credit, or be payable out of
37 property or funds, other than moneys appropriated for that purpose,
38 of the State;

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

44 (1) Employ architects and engineers to plan buildings and other
45 campus facilities; secure bids for the construction of buildings and for
46 the equipment thereof; make contracts for the construction of

1 buildings and for the equipment thereof; and supervise that
2 construction;

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

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

32 This subsection shall not prevent the university from having any
33 work done by its own employees, nor shall it apply to repairs, or to the
34 furnishing of materials, supplies or labor or the hiring of equipment or
35 vehicles, when the safety or protection of its or other public property
36 or the public convenience requires or the exigency of the university's
37 service will not admit of such advertisement. In such case, the
38 university shall, by resolution passed by an affirmative vote of its
39 board of trustees, declare the exigency or emergency to exist,
40 remediate as practicable and maintain appropriate records as to the
41 reason for such awards, reporting as soon as practicable thereafter to
42 its board of trustees on all such purchases, the amounts and the
43 reasons therefor;

44 (4) Manage and maintain, and provide for the payment of all
45 charges on and expenses in respect of, all properties utilized by the
46 university;

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

5 Investment in not for profit corporations or for profit corporations
6 organized and operated pursuant to the provisions of subsection s. of
7 this section may utilize income realized from the sale or licensing of
8 intellectual property as well as the reinvestment of earnings on
9 intellectual property. Investment in not for profit corporations may
10 also utilize income from overhead grant fund recovery as permitted by
11 federal law as well as other university funds except those specified in
12 paragraph 4 of subsection s. of this section;

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

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

25 m. Grant diplomas, certificates or degrees;

26 n. Enter into contracts and agreements with the State or any of its
27 political subdivisions or with the United States, or with any public
28 body, department or other agency of the State or the United States or
29 with any individual, firm or corporation which are deemed necessary
30 or advisable by the board for carrying out the provisions of this act.
31 A contract or agreement pursuant to this subsection may require a
32 municipality to undertake obligations and duties to be performed
33 subsequent to the expiration of the term of office of the elected
34 governing body of the municipality which initially entered into or
35 approved the contract or agreement, and the obligations and duties so
36 incurred by the municipality shall be binding and of full force and
37 effect, notwithstanding that the term of office of the elected members
38 of the governing body of the municipality which initially entered into
39 or approved that contract or agreement, shall have expired.

40 Pursuant to this subsection, the board of trustees may procure and
41 enter into contracts for any type of insurance and indemnify against
42 loss or damage to property from any cause, including loss of use and
43 occupancy, against death or injury of any person, against employees'
44 liability, against any act of any member, officer, employee or servant
45 of the university, whether part-time, full-time, compensated or
46 non-compensated in the performance of the duties of his office or

1 employment or any other insurable risk. In addition, the university
2 shall carry its own liability insurance or maintain an actuarially sound
3 program of self-insurance. Any joint venture, subsidiary corporation,
4 or partnership or other jural entity entered into or owned wholly or in
5 part by the university shall maintain insurance or reserves in such
6 amounts as are determined by an actuary to be sufficient to meet its
7 actual or accrued claims;

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

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

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

25 r. Continue to retain independent counsel;

26 s. Participate as the general partner or as a limited partner, either
27 directly or through a subsidiary corporation created by the university,
28 in limited partnerships, general partnerships, or joint ventures engaged
29 in the development, manufacture, or marketing of products,
30 technology, scientific information or services and create or form for
31 profit or not for profit corporations to engage in such activities;
32 provided that any such participation shall be consistent with the
33 mission of the university and the board shall have determined that such
34 participation is prudent.

35 (1) The decision to participate in any of the activities described in
36 this subsection, including the creation or formation of for profit or not
37 for profit corporations, shall be articulated in the minutes of the board
38 of trustees meeting in which action was approved. A true copy of the
39 minutes of that meeting shall be delivered to the Governor. No such
40 action shall take effect until 30 days, Saturdays, Sundays and public
41 holidays excepted, after the copy of the minutes shall have been
42 delivered to the Governor. If, within the 30-day period, the Governor
43 returns the minutes of the meeting with a veto of the action taken by
44 the board, the action taken by the board shall be null and void and of
45 no effect.

46 (2) Any actions taken by the university pursuant to this subsection

1 shall be in conformity with the university's policy on conflicts of
2 interest and the provisions of P.L.1971, c.182 (C.52:13D-12 et seq.),
3 which shall apply to the university, its employees and officers.

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

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

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

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

18 (7) Income realized by the university as a result of participation in
19 the development, manufacture or marketing of products, technology,
20 or scientific information may be invested, reinvested or retained by the
21 board in accordance with the provisions of this act and any other State
22 or federal law for use in furtherance of any of the purposes of this act
23 or of other applicable statutes.

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

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

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

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

34
35 32. Section 6 of P.L.1970, c.102 (C.18A:64G-6) is amended to
36 read as follows:

37 6. The board of trustees of the university shall have the general
38 supervision over and be vested with the conduct of the university,
39 including its health care facilities regardless of the source of funding.
40 It shall have the power and duty to:

41 (a) Adopt and use a corporate seal;

42 (b) Determine the educational curriculum and program of the
43 university;

44 (c) Determine policies for the organization, administration, and
45 development of the university;

46 (d) Study the educational and financial needs of the university,

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

5 (e) Disburse all moneys appropriated to the university by the
6 Legislature and all moneys received from tuition, fees, auxiliary
7 services and other sources;

8 (f) Direct and control expenditures and transfers of funds
9 appropriated to the university in accordance with the provisions of the
10 State budget and appropriation acts of the Legislature, and, as to funds
11 received from other sources, direct and control expenditures and
12 transfers in accordance with the terms of any applicable trusts, gifts,
13 bequests, or other special provisions, reporting changes and additions
14 thereto and transfers thereof to the Director of the Division of Budget
15 and 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) In accordance with the provisions of the State budget and
18 appropriation acts of the Legislature, appoint and fix the compensation
19 and term of office of a president of the university who shall be the
20 executive officer of the university;

21 (h) In accordance with the provisions of the State budget and
22 appropriation acts of the Legislature, appoint, upon nomination of the
23 president, such deans and other members of the academic,
24 administrative and teaching staffs as shall be required and fix their
25 compensation and terms of employment;

26 (i) In accordance with the provisions of the State budget and
27 appropriation acts of the Legislature, appoint, remove, promote and
28 transfer such other officers, agents, or employees as may be required
29 to carry out the provisions of this act and assign their duties,
30 determine their salaries, and prescribe qualifications for all positions
31 and in accordance with the salary schedules of the Civil Service
32 Commission wherever possible;

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

39 (k) Grant diplomas, certificates or degrees;

40 (l) Enter into contracts and agreements with the State or any of its
41 political subdivisions or with the United States, or with any public
42 body, department or other agency of the State or the United States or
43 with any individual, firm or corporation which are deemed necessary
44 or advisable by the board for carrying out the provisions of this act.
45 A contract or agreement pursuant to this subsection may require a
46 municipality to undertake obligations and duties to be performed

1 subsequent to the expiration of the term of office of the elected
2 governing body of such municipality which initially entered into or
3 approved said contract or agreement, and the obligations and duties so
4 incurred by such municipality shall be binding and of full force and
5 effect, notwithstanding that the term of office of the elected governing
6 body of such municipality which initially entered into or approved said
7 contract or agreement, shall have expired;

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

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

16 (2) Adopt standing operating rules and procedures for the purchase
17 of all equipment, materials, supplies and services; however, no
18 contract on behalf of the university shall be entered into for the
19 purchase of services, materials, equipment and supplies, for doing of
20 any work, or for the hiring of equipment or vehicles, where the sum to
21 be expended exceeds \$12,500.00 or the amount determined by the
22 Governor as provided herein, unless the university shall first publicly
23 advertise for bids and shall award the contract to that responsible
24 bidder whose bid, conforming to the invitation for bids, will be most
25 advantageous to the university, price and other factors considered.
26 Such advertising shall not be required in those exceptions created by
27 the board of trustees of the university, which shall be in substance
28 those exceptions contained in sections 4 and 5 of P.L.1954, c.48
29 (C.52:34-9 and 10) or 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 this State and tariffs and schedules
32 of the charges, made, charged, or exacted by the public utility for any
33 such products to be supplied or services to be rendered are filed with
34 the said board. Commencing January 1, 1985 and every two years
35 thereafter, the Governor, in consultation with the Department of the
36 Treasury, shall adjust the threshold amount set forth in this paragraph
37 in direct proportion to the rise or fall of the consumer price index for
38 all urban consumers in the New York City and the Philadelphia areas
39 as 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 the affirmative vote of its
3 board of trustees, declare the exigency or emergency to exist, and set
4 forth in the resolution the nature and approximate amount to be
5 expended; shall maintain appropriate records as to the reason for such
6 awards; and shall report regularly to its board of trustees on all such
7 purchases, the amounts and the reasons therefor;

8 (3) Employ architects to plan buildings; secure bids for the
9 construction of buildings and for the equipment thereof; make
10 contracts for the construction of buildings and for equipment; and
11 supervise the construction of buildings;

12 (4) Manage and maintain, and provide for the payment of all
13 charges on and expenses in respect of, all properties utilized by the
14 university; and

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

18 In not for profit corporations utilizing income realized from the sale
19 or licensing of intellectual property, as well as the reinvestment of
20 earnings on intellectual property; income realized from the operation
21 of faculty practice plans of the university; and income from overhead
22 grant fund recovery as permitted by federal law;

23 In for profit corporations utilizing income realized from the sale or
24 licensing of intellectual property, as well as the reinvestment of
25 earnings on intellectual property.

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

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

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

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

46 (s) Function as a public employer under the "New Jersey

1 Employer-Employee Relations Act," P.L.1941, c.100 (C.34:13A-1 et
2 seq.) and conduct all labor negotiations, and with the participation of
3 the Governor's Office of Employee Relations act as the chief
4 spokesperson with respect to all matters under negotiation;

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

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

9 (v) (1) Participate as the general partner or as a limited partner,
10 either directly or through a subsidiary corporation created by the
11 university, in limited partnerships, general partnerships, or joint
12 ventures engaged in the development, manufacture, or marketing of
13 products, technology, scientific information or health care services and
14 create or form for profit or not for profit corporations to engage in
15 such activities; provided that any such participation shall be consistent
16 with the mission of the university and the board shall have determined
17 that such participation is prudent. Nothing herein shall be construed
18 to authorize any change in the legal status of University Hospital;

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

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

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

35 (5) Funds directly appropriated to the university from the State or
36 derived from the university's academic programs or derived from
37 payment for coverage provided by the self insurance fund for claims
38 accruing prior to the effective date of this act shall not be utilized in
39 the development, manufacture or marketing of products, technology
40 or scientific information;

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

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

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

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

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

24 (2) Moneys in the fund known as the Self-Insurance Trust Fund
25 administered by the State Treasurer shall continue to be available to
26 the university solely to indemnify and defend claims against the
27 university and its employees, officers and servants but only to the
28 extent that the University has elected on behalf of itself and its
29 employees to obtain representation from the Attorney General
30 pursuant to subsection h. of section 6 of P.L.1994, c.48 (C.18A:3B-6)
31 and such entity or individuals would have been entitled to defense and
32 indemnification pursuant to the "New Jersey Tort Claims Act,"
33 N.J.S.59:1-1 et seq., as a State entity or State employee but for the
34 provision of subsection (t) of section 6 of P.L.1970, c.102
35 (C.18A:64G-6). Any expenditure of such funds shall be made only in
36 accordance with the provisions of the "New Jersey Tort Claims Act,"
37 N.J.S.59:1-1 et seq., including but not limited to the provisions of
38 chapters 10, 10A and 11 of Title 59 of the New Jersey Statutes.
39 Nothing herein shall be construed to authorize the use of the
40 Self-Insurance Trust Fund to indemnify or insure in any way, directly
41 or indirectly the activities of any joint venture, partnership or
42 corporation entered into or created by the university pursuant to
43 paragraphs (1) and (2) of subsection (v) of section 6 of P.L.1970,
44 c.102 (C.18A:64G-6); and

45 (x) Create auxiliary organizations subject to the provisions of

1 P.L.1982, c.16 (C.18A:64-26 et seq.).
2 (cf: P.L.1994, c.48, s.169)

3

4 33. This act shall take effect immediately.

5

6

7

STATEMENT

8

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

15 The bill provides for the creation of the Prepaid Higher Education
16 Expense Board, in but not of, the Department of the Treasury. The
17 board will consist of the Treasurer, the chairman of the Commission
18 on Higher Education, or their designees, and five members appointed
19 by the Governor who will possess knowledge, skill and experience in
20 the areas of accounting, actuary, risk management, or investment
21 management. The board will be responsible for administering the New
22 Jersey Prepaid Higher Education Expense Program.

23 The board, pursuant to the bill, will develop two types of advance
24 payment contracts, one for tuition and registration fees and the other
25 for dormitory residence. The bill sets forth provisions that must be
26 included in both types of advance payment contracts. These
27 provisions include:

- 28 - the amount of the payment and the number of payments required;
- 29 - the terms and conditions under which a purchaser will remit
30 payments, including, but not limited to, the dates upon which each
31 payment will be due;
- 32 - provisions for late payment charges and for default;
- 33 - provisions for penalty fees for withdrawals from the fund;
- 34 - the name and date of birth of the qualified beneficiary on whose
35 behalf the contract is drawn and the terms and conditions under which
36 another person may be substituted as the qualified beneficiary;
- 37 - the name of any person who may cancel the contract;
- 38 - the terms and conditions under which a contract may be canceled,
39 the name of the person entitled to any refund due as a result of the
40 cancellation, and the amount of refund, if any, due to the person
41 named;
- 42 - the time limitations, if any, within which the qualified beneficiary
43 must claim benefits through the program; and
- 44 - other terms and conditions deemed by the board to be necessary
45 or proper.

46 In addition to these general provisions, the bill also requires that

1 each type of advance payment contract include specific provisions.
2 The advance payment contract for tuition and registration fees, for
3 example, will have to include the number of semester credit hours
4 contracted by the purchaser and whether the credit hours will be
5 applied toward a four- year public institution of higher education or a
6 county college. This type of advance payment contract will also
7 include a provision obligating the board to provide to the qualified
8 beneficiary the specified number of semester credit hours, not to
9 exceed the average number of credit hours required for the conference
10 of the degree that corresponds to the plan purchased on behalf of the
11 qualified beneficiary.

12 An advance payment contract for dormitory residence will have to
13 include the number of semesters of dormitory residence contracted by
14 the purchaser. This advance payment contract, similar to the advance
15 payment contract for tuition and registration fees, will have to include
16 a provision obligating the board to provide to a qualified beneficiary
17 the specified number of semesters of dormitory residence, not to
18 exceed the maximum number of semesters of full-time enrollment
19 required for the conference of a baccalaureate degree.

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

37 Through the dormitory plans, the advance payment contract will
38 provide prepaid housing fees for a maximum of 10 semesters of full-
39 time undergraduate enrollment in a four-year public institution of
40 higher education. These plans are optional, and may be purchased
41 only in conjunction with a university plan. As with the university plan,
42 costs of participation will be based primarily on the average current
43 and projected housing fees within the four-year public institutions of
44 higher education and the number of years expected to elapse between
45 the purchase of the plan and the exercise of the benefits by the
46 qualified beneficiary.

1 The bill permits any of these plans to be applied toward any
2 independent institution of higher education located within the State.
3 Under these circumstances, the board will transfer to these institutions
4 an amount not to exceed the redemption value of the advance payment
5 contract within a public institution of higher education. If the costs at
6 the independent institution of higher education is less than the
7 corresponding costs at a public institution of higher education, then
8 the amount transferred may not exceed the actual cost of tuition and
9 registration fees or housing fees.

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

21 The bill states that it should not be construed as providing or
22 guaranteeing that a qualified beneficiary of an advance payment
23 contract will be admitted to a public institution of higher education or
24 to a particular one of these institutions, will be allowed to continue
25 enrollment at one of these institutions after admission or will be
26 graduated from one of these institutions.

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

33 Finally, the bill provides that if the State Treasurer determines that
34 the program is financially infeasible, the State may discontinue the
35 program. In this case a qualified beneficiary who has been accepted
36 by and is enrolled or is within five years of enrollment in an
37 independent institution of higher education or public institution of
38 higher education will be entitled to exercise the benefits for which he
39 has contracted. Other contract holders will receive a refund of the
40 amount paid into the fund plus interest at the prevailing rate.