

# **WEST VIRGINIA LEGISLATURE**

**2022 REGULAR SESSION**

**Introduced**

## **Senate Bill 8**

BY SENATORS GRADY, LINDSAY, JEFFRIES, AND PHILLIPS

[Introduced January 12,2022]

1 A BILL to repeal §18-30-6a of the Code of West Virginia, 1931, as amended; to amend said code  
2 by adding thereto a new article, designated §12-9-1, §12-9-2, and §12-9-3; to amend and  
3 reenact §18-30-1, §18-30-2, §18-30-3, §18-30-4, §18-30-5, §18-30-6, §18-30-8, §18-30-  
4 10, §18-30-11, and §18-30-13 of said code; to amend said code by adding thereto a new  
5 section, designated §18-30-3a; and to amend and reenact §18-30A-2, §18-30A-3, §18-  
6 30A-5, §18-30A-6, §18-30A-8, and §18-30A-9 of said code, all relating generally to the  
7 state's savings and investment programs; continuing the Savings and Investment Program  
8 Fulfillment Fund and relocating provisions authorizing said fund to a new article of code;  
9 clarifying that moneys in the fund may be used for certain savings and investment  
10 programs; updating the West Virginia College Prepaid Tuition and Savings Program Act  
11 to reflect the termination of the Prepaid Higher Education Program, Plan, and Trust Fund;  
12 eliminating obsolete language related to the Prepaid Tuition Program; providing a short  
13 title; defining terms; setting forth legislative findings and rules of statutory construction;  
14 continuing the West Virginia College Savings Program; continuing the Board of the  
15 College Prepaid Tuition and Savings Program and redesignating the board as the Board  
16 of Trustees of the West Virginia College and Jumpstart Savings Programs; clarifying that  
17 the board is a public instrumentality of the state and the issuer of interests in the Savings  
18 Plan Trust; increasing the number of board members; establishing qualifications of certain  
19 board members; establishing the duties and powers of the board with regard to the College  
20 Savings Program; authorizing the board to use financial organizations as program  
21 depositories and managers and providing requirements therefor; continuing the College  
22 Prepaid Tuition and Savings Program Administrative Account and redesignating said  
23 account as the College and Jumpstart Savings Administrative Account; authorizing certain  
24 expenditures from the administrative account; providing that the administrative account is  
25 a nonappropriated special revenue account; authorizing the board to take action to satisfy  
26 outstanding obligations of the Prepaid Tuition Trust Plan arising after the Plan's closure;

27 continuing the Prepaid Tuition Plan escrow fund; continuing the board's authority to  
28 maintain a certain amount in the escrow fund for up to 10 years; continuing the board's  
29 authorization to expend moneys from the escrow fund in certain circumstances; requiring  
30 the board to invest the moneys in the escrow fund; providing for closure of escrow fund;  
31 setting forth legislative findings and rules of statutory construction related to the Jumpstart  
32 Savings Program; defining terms; eliminating the West Virginia Jumpstart Savings Board;  
33 requiring the Board of Trustees of the West Virginia College and Jumpstart Savings Board  
34 to administer the Jumpstart Savings Program; establishing the powers of the Board of  
35 Trustees of the West Virginia College and Jumpstart Savings Programs to implement and  
36 administer the Jumpstart Savings Program; authorizing the board to enter into agreements  
37 with agencies, subdivisions, or other states regarding programs that are substantially  
38 similar to the Jumpstart Savings Program; providing that the Jumpstart Savings Program  
39 Trust is a public instrumentality of the state and shall issue interests in said trust to eligible  
40 members of the public; eliminating the Jumpstart Savings Expense Fund; providing that  
41 fees, charges, and penalties collected by the board in administering the Jumpstart Savings  
42 Program shall be deposited in the College and Jumpstart Savings Administrative Account;  
43 making Jumpstart Savings Program expenses payable from the administrative account;  
44 eliminating inapplicable language relating to selecting financial institutions to provide  
45 services for the Jumpstart Savings Program based on existing state purchasing  
46 exemption; specifying that the board may enter into a contract with financial institutions to  
47 provide services to both the College Savings and Jumpstart Savings programs; eliminating  
48 requirement that board take custody of Jumpstart Savings accounts prior to transferring  
49 accounts to a new program manager; and making numerous technical corrections.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 12. PUBLIC MONEYS AND SECURITIES.**

**ARTICLE 9. SAVINGS AND INVESTMENT PROGRAM FULFILLMENT FUND.**

**§12-9-1. Special revenue account continued.**

1        There is continued in the State Treasury the special revenue account, designated the  
2 West Virginia Savings and Investment Program Fulfillment Fund, previously authorized by  
3 §18-30-6a of this code. The fund shall be administered by the State Treasurer for the purposes  
4 described in this article.

**§12-9-2. Receipts and expenditures.**

1        (a) The West Virginia Savings and Investment Program Fulfillment Fund shall consist of  
2 all moneys in the fund on the effective date of this section; any moneys that may be appropriated  
3 to the fund by the Legislature; all interest or other return earned or received from investment of  
4 the fund; any moneys which the fund is authorized to receive under any provision of this code for  
5 the purposes of this article; and all gifts, grants, bequests, or transfers made to the fund from any  
6 source.

7        (b) The State Treasurer may expend moneys in the West Virginia Savings and Investment  
8 Program Fulfillment Fund for costs to implement or administer any savings or investment program  
9 with an initial date of operation occurring on or after July 1, 2021, including, but not limited to, the  
10 Hope Scholarship Program, established in §18-31-1 et seq. of this code, and Jumpstart Savings  
11 Program, established in §18-30A-1 et seq. of this code. Any balance, including accrued interest  
12 and other returns, remaining in the fund at the end of each fiscal year shall not revert to the  
13 General Revenue Fund but shall remain in the fund to be expended as authorized by this article.

**§12-9-3. Investment of fund.**

1        The State Treasurer is authorized to invest and reinvest moneys in the fund, and all  
2 interest and earnings of the fund shall accrue to the fund and be available for expenditure in  
3 accordance with this article.

**CHAPTER 18. EDUCATION.**

**ARTICLE 30. WEST VIRGINIA COLLEGE ~~PREPAID TUITION AND SAVINGS~~  
PROGRAM ACT.**

**§18-30-1. Title.**

1           This article is known and cited as the "West Virginia College ~~Prepaid Tuition and Savings~~  
2 Program Act".

**§18-30-2. Legislative findings and purpose.**

1           (a) The Legislature finds and determines that enhancing the accessibility and affordability  
2 of education for all citizens of West Virginia will promote a well-educated and financially secure  
3 population to the ultimate benefit of all citizens of West Virginia, and that assisting individuals and  
4 families in planning for future educational expenses by making the tax incentives in 26 U.S.C. §  
5 529 available to West Virginians is one of the proper governmental functions and purposes of the  
6 state.

7           ~~The Legislature also finds that continuation of the prepaid tuition plan and creation of a~~  
8 ~~savings plan will further those governmental functions and purposes. It is, therefore, the legislative~~  
9 ~~intent of this article to continue the prepaid tuition plan and to enhance the plan by authorizing the~~  
10 ~~creation of a savings plan so that more students may attend eligible educational institutions~~

**§18-30-3. Definitions.**

1           For the purposes of this article, the following terms have the meanings ascribed to them,  
2 unless the context clearly indicates otherwise or as otherwise provided in 26 U.S.C. §529:

3           "Account" means ~~a prepaid tuition account or~~ a savings plan account established in  
4 accordance with this article.

5           "Account owner" means the individual, corporation, association, partnership, trust, or other  
6 legal entity ~~who enters into a prepaid tuition contract and is obligated to make payments in~~  
7 ~~accordance with the prepaid tuition contract or~~ who enters into a savings plan contract and invests  
8 money in a savings plan account.

9           “Beneficiary” means the individual designated as a beneficiary at the time an account is  
10 established, the individual designated as the beneficiary when beneficiaries are changed, the  
11 individual entitled to receive distributions from an account, and any individual designated by the  
12 account owner, his or her agent, or his or her estate in the event the beneficiary is unable or  
13 unwilling to receive distributions under the terms of the contract.

14           “Board” means the Board of Trustees of the West Virginia College Prepaid Tuition and  
15 Jumpstart Savings Program Programs as provided in §18-30-4 of this code.

16           “Distribution” means any disbursement from an account in accordance with 26 U.S.C.  
17 §529.

18           “Eligible educational institution” means an institution of higher education or a private or  
19 religious primary, middle, or secondary school that qualifies under 26 U.S.C. §529 as an eligible  
20 educational institution.

21           “Outstanding obligations of the Prepaid Tuition Plan” means the outstanding contract  
22 obligations of the board to persons owning Prepaid Tuition Plan accounts. The term also includes  
23 any fees, charges, expenses, penalties, or any other obligation or liability of the Prepaid Tuition  
24 Trust Fund or plan.

25           ~~“Prepaid tuition account” means an account established by an account owner pursuant to~~  
26 ~~this article, in order for the beneficiary to apply distributions in accordance with the Prepaid Tuition~~  
27 ~~Plan.~~

28           ~~“Prepaid tuition contract” means a contract entered into by the board and an account~~  
29 ~~owner establishing a prepaid tuition account.~~

30           ~~“Prepaid Tuition Plan” means the plan that contractually guarantees payment of tuition at~~  
31 ~~an eligible educational institution~~

32           “Prepaid Tuition Program” means the Prepaid Higher Education Program and Plan, which  
33 was previously established and authorized by this article as reflected in Chapter 80, Acts of the  
34 Legislature, Regular Session, 1997, and which was closed in 2021.

35 “Program” means the West Virginia College ~~Prepaid Tuition and~~ Savings Program  
36 established pursuant to this article and as defined in §18-30-4(a) of this code.

37 “Qualified education expenses” means expenses treated as “qualified higher education  
38 expenses” under 26 U.S.C. §529.

39 “Savings plan” means the plan that allows account distributions for qualified higher  
40 educational expenses and tuition at private or religious primary, middle, and secondary schools.

41 “Savings plan account” means an account established by an account owner pursuant to  
42 this article, in order for the beneficiary to apply distributions toward qualified higher education  
43 expenses and tuition expenses at eligible educational institutions.

44 “Savings plan contract” means a contract entered into by the board or its agent, if any,  
45 and an account owner establishing a savings plan account.

46 “Treasurer” means the West Virginia State Treasurer.

47 “Tuition” means the quarter, semester, or term charges imposed by an eligible educational  
48 institution and all mandatory fees required as a condition of enrollment by all students for full-time  
49 attendance.

**§18-30-3a. 2022 Legislative findings; statutory construction.**

1 (a) The Legislature makes the following findings, with regard to the amendments to this  
2 article adopted during the 2022 Regular Session of the Legislature:

3 (1) Whereas the Prepaid Tuition Program and Plan, administered by the board from 1998  
4 until 2021, was statutorily closed to new accounts in 2001;

5 (2) Whereas the board initiated a statutorily authorized buyout of all remaining accounts  
6 in 2021 and terminated the Prepaid Tuition Program, Plan, and Trust Fund;

7 (3) Whereas the Jumpstart Savings Act, adopted during the in 2021 Regular Session of  
8 the Legislature, created a new savings and investment program to become operational on July 1,  
9 2022;

10 (4) Whereas the Jumpstart Savings Program is structurally similar to the College Savings

11 Program, both programs share the objective of assisting West Virginians to obtain the education  
 12 and skills that they need for productive and successful livelihoods, and the Jumpstart Savings Act  
 13 allows state tax rollovers from a SMART529 account into a Jumpstart Savings Account;

14 (5) Whereas authorizing a single board to administer both the College Savings Program  
 15 and Jumpstart Savings Program, rather than requiring each program to have a separate board,  
 16 will significantly reduce management and administrative costs to the state;

17 (6) Therefore, the Board of Trustees of the College Prepaid Tuition and Savings Program  
 18 should be continued and re-designated as “the Board of Trustees of the West Virginia College  
 19 and Jumpstart Savings Programs” and said board should be tasked with administering the  
 20 College Savings Program, established by this article, and the Jumpstart Savings Program,  
 21 established by §18-30A-1 et seq. of this code.

22 (b) The Legislature further finds that, whenever possible, this article should be read in pari  
 23 materia and construed in harmony with the Jumpstart Savings Act, located in §18-30A-1 et seq.  
 24 of this code.

25 (c) The Legislature further finds that interests in the College Savings Program Trust are  
 26 intended:

27 (1) To qualify for relevant federal securities law exemptions for public instrumentalities of  
 28 a State; and

29 (2) To be exempt from registration under Chapter 32 of the West Virginia Code, the  
 30 "Uniform Securities Act".

**§18-30-4. The Board of Trustees of the West Virginia College and Jumpstart Savings**  
**Programs; Creation of program; board; members; terms; compensation;**  
**proceedings generally.**

1 (a) The West Virginia College Prepaid Tuition and Savings Program is continued. The  
 2 program consists of a savings plan and the outstanding obligations of the Prepaid Tuition Plan.  
 3 the savings plan administered according to this article and the requirements of 26 U.S.C. §529.



4 (b) The Board of Trustees of the College Prepaid Tuition and Savings Program is  
5 continued as a public instrumentality of the State of West Virginia: *Provided*, That the Board shall  
6 hereafter be known as the Board of Trustees of the West Virginia College and Jumpstart Savings  
7 Programs. ~~and all powers, rights, and responsibilities of the Board of Trustees of the Prepaid~~  
8 ~~Tuition Trust Fund are vested in the Board of the College Prepaid Tuition and Savings Program~~

9 (c) The board consists of ~~nine~~ 11 members and includes the following:

10 (1) The State Treasurer, or his or her designee;

11 (2) The State Superintendent of Schools, or his or her designee;

12 (3) A representative of the Higher Education Policy Commission, who may or may not be  
13 a member of the Higher Education Policy Commission, appointed by the commission who serves  
14 as a voting member of the board;

15 (4) A representative of the Council for Community and Technical College Education, who  
16 may or may not be a member of the Council for Community and Technical College Education,  
17 appointed by the council who serves as a voting member of the board; and

18 (5) ~~Five~~ Seven other members, appointed by the Governor, with the advice and consent  
19 of the Senate, as follows:

20 (A) Three private citizens with knowledge, skill, and experience in a financial field, who  
21 are not employed by, or an officer of, the state or any political subdivision of the state: *Provided*,  
22 That reasonable efforts shall be made to appoint one such citizen to the board who holds a  
23 designation of Chartered Financial Analyst, offered by the CFA Institute; ~~and~~

24 (B) Two private citizens, appointed by the Governor, with knowledge, skill, and experience  
25 in trade occupations or businesses, to be appointed as follows:

26 (i) A member representing a labor organization that represents tradespersons in this state;  
27 and

28 (ii) A member representing a business or entity offering trade or skilled labor  
29 apprenticeships in this state; and

30 ~~(B)~~ (C) Two members representing the interests of private institutions of higher education  
 31 located in this state appointed from one or more nominees of the West Virginia Independent  
 32 Colleges and Universities.

33 (d) Only state residents are eligible for appointment to the board.

34 (e) Members appointed by the Governor serve a term of five years and are eligible for  
 35 reappointment at the expiration of their terms. If there is a vacancy among appointed members,  
 36 the Governor shall appoint a person representing the same interests to fill the unexpired term.

37 (f) Members of the board serve until the later of the expiration of the term for which the  
 38 member was appointed or the appointment of a successor. Members of the board serve without  
 39 compensation. The Treasurer may pay all expenses, including travel expenses, actually incurred  
 40 by board members in the conduct of their official duties. Expense payments are made from the  
 41 College ~~Prepaid Tuition~~ and Jumpstart Savings Program Administrative Account and are made  
 42 at the same rate paid to state employees.

43 (g) The Treasurer may provide support staff and office space for the board.

44 (h) The Treasurer is the chairperson and presiding officer of the board and may appoint  
 45 the employees the board considers advisable or necessary. A majority of the members of the  
 46 board constitutes a quorum for the transaction of the business of the board.

**§18-30-5. Powers of the board to administer the College Savings Program.**

1 ~~In addition to the powers granted by any other provision of this article, the board has the~~  
 2 ~~powers necessary or appropriate to carry out the provisions and objectives of this article, other~~  
 3 ~~methods of financing post-secondary education as relate to the program, and the powers~~  
 4 ~~delegated by any other law of the state or any executive order of the state. The board may also:~~

5 ~~(a) Adopt and amend bylaws;~~

6 ~~(b) Sue and be sued;~~

7 ~~(c) Execute contracts and other instruments for necessary goods and services, employ~~  
 8 ~~necessary personnel and engage the services of private consultants, actuaries, Auditors, counsel,~~

9 managers, trustees, and any other contractor or professional needed. Selection of these services  
10 is not subject to the provisions of article three, chapter five-a of this code;

11 ~~(d) Operate a prepaid tuition plan in accordance with this article and 26 U.S.C. §529;~~

12 ~~(e) Operate a savings plan in accordance with this article and 26 U.S.C. §529;~~

13 ~~(f) Develop and impose any requirements, policies, procedures, and guidelines to~~  
14 ~~implement and manage the program;~~

15 ~~(g) Impose reasonable requirements for residency for beneficiaries at the time of purchase~~  
16 ~~of a prepaid tuition contract. However, nothing in this subdivision establishes residency~~  
17 ~~requirements for matriculation at state eligible educational institutions;~~

18 ~~(h) Assess, collect and expend administrative fees, charges, and penalties;~~

19 ~~(i) Authorize the assessment, collection, and retention of fees and charges against the~~  
20 ~~amounts paid into and the earnings on the trust funds by a financial institution, investment~~  
21 ~~manager, fund manager, West Virginia Investment Management Board, or other professional~~  
22 ~~managing or investing the trust funds and accounts;~~

23 ~~(j) Invest and reinvest any of the funds and accounts under the board's control with a~~  
24 ~~financial institution, an investment manager, a fund manager, the West Virginia Investment~~  
25 ~~Management Board or other professional investing the funds and accounts. Investments made~~  
26 ~~under this article shall be made in accordance with the provisions of article six-c, chapter forty-four~~  
27 ~~of this code, the West Virginia uniform prudent investor act. No board member, nor any person,~~  
28 ~~financial institution, investment manager, fund manager or the West Virginia Investment~~  
29 ~~Management Board to whom the board delegates any of its investment authority who acts within~~  
30 ~~the standard of care set forth in this section is personally liable for losses suffered by the program~~  
31 ~~on investments made pursuant to this article;~~

32 ~~(k) Solicit and accept gifts, including bequests or other testamentary gifts made by will,~~  
33 ~~trust or other disposition, grants, loans, aid, and property, real or personal of any nature and from~~  
34 ~~any source, or to participate in any other way in any federal, state or local governmental programs~~

35 ~~in carrying out the purposes of this article. The board shall use the property received to effectuate~~  
36 ~~the desires of the donor, and shall convert the property received into cash within ninety days of~~  
37 ~~receipt;~~

38 ~~(l) Propose legislative rules for promulgation in accordance with the provisions of article~~  
39 ~~three-a, chapter twenty-nine-a of this code;~~

40 ~~(m) Make all necessary and appropriate arrangements with eligible educational institutions~~  
41 ~~in order to fulfill its obligations under the prepaid tuition contracts and the savings plan contracts;~~  
42 ~~and~~

43 ~~(n) Establish a direct support organization which is a West Virginia corporation, not for~~  
44 ~~profit, organized and operated to receive, hold, invest and administer property and make~~  
45 ~~expenditures to or for the benefit of the purposes of this article, if the board determines a need for~~  
46 ~~the organization exists. The board may authorize the direct support organization to use program~~  
47 ~~facilities and property, except money. The board may invest funds of the direct support~~  
48 ~~organization.~~

49 (a) The board shall administer the College Savings Program in accordance with this article  
50 and 26 U.S.C. §529.

51 (b) The board shall offer and issue interests in the Savings Plan Trust to eligible members  
52 of the public.

53 (c) The board is authorized to take any lawful action necessary to effectuate the provisions  
54 of this article and successfully administer the program, subject to applicable state and federal law,  
55 including, but not limited to, the following:

56 (1) Adopt and amend bylaws;

57 (2) Execute contracts and other instruments for necessary goods and services, employ  
58 necessary personnel, and engage the services of private consultants, auditors, counsel,  
59 managers, trustees, and any other contractor or professional needed for rendering professional  
60 and technical assistance and advice: *Provided*, That selection of these services is not subject to

61 the provisions of §5A-3-1 et seq. of this code: *Provided, however,* That all expenditures and  
62 monetary and financial transactions may be subject to periodic audits by the Legislative Auditor;

63 (3) Implement the program through use of financial organizations as account depositories  
64 and managers, as provided in §18-30-6 of this code;

65 (4) Develop and impose requirements, policies, procedures, and guidelines to implement  
66 and manage the program;

67 (5) Establish the method by which funds shall be allocated to pay for administrative costs  
68 and assess, collect, and expend administrative fees, charges, and penalties;

69 (6) Authorize the assessment, collection, and retention of fees and charges against the  
70 amounts paid into and the earnings on the trust funds by a financial institution, investment  
71 manager, fund manager, West Virginia Investment Management Board, the Board of Treasury  
72 Investments, or other professional managing or investing the trust funds and accounts;

73 (7) Invest and reinvest any of the funds and accounts under the board's control with a  
74 financial institution, an investment manager, a fund manager, the West Virginia Investment  
75 Management Board, the Board of Treasury Investments, or other professional investing the funds  
76 and accounts: *Provided,* That investments made under this article shall be made in accordance  
77 with the provisions of §44-6C-1 et seq. of this code;

78 (8) Solicit and accept gifts, including bequests or other testamentary gifts made by will,  
79 trust, or other disposition; grants; loans; aid; and property, real or personal of any nature and from  
80 any source, or to participate in any other way in any federal, state, or local governmental programs  
81 in carrying out the purposes of this article: *Provided,* That the board shall use the property  
82 received to effectuate the desires of the donor, and shall convert the property received into cash  
83 within 90 days of receipt;

84 (9) Make all necessary and appropriate arrangements with eligible educational institutions  
85 in order to fulfill its obligations under the savings plan contracts; and

86 (10) Propose legislative rules for promulgation in accordance with §29A-3-1 et seq. of this

87 code, including emergency rules when necessary.

88 (d) The power and duties of the board provided in this article are in addition to the powers  
89 and duties of the board provided in §18-30A-1 et seq. of this code.

**§18-30-6. West Virginia prepaid tuition trust escrow fund. Use of financial organizations as**  
**program depositories and managers.**

1 ~~(a) The Prepaid Tuition Trust Fund is continued within the accounts held by the State~~  
2 ~~Treasurer for administration by the board until such time as the moneys in the fund are depleted~~  
3 ~~and the board elects to close the fund.~~

4 ~~(b) Upon the closure of the Prepaid Tuition Trust Fund, the board is authorized to expend~~  
5 ~~moneys from the Prepaid Tuition Trust Escrow Fund for the purpose of satisfying outstanding~~  
6 ~~obligations of the Prepaid Tuition Trust Plan, according to the requirements of subsection (h) of~~  
7 ~~this section.~~

8 ~~(c) The corpus, assets, and earnings of the Prepaid Tuition Trust Fund and the Prepaid~~  
9 ~~Tuition Trust Escrow Fund do not constitute public funds of the state and are available solely for~~  
10 ~~carrying out the purposes of this article. Any contract entered into by or any obligation of the board~~  
11 ~~on behalf of and for the benefit of the Prepaid Tuition Plan does not constitute a debt of the state~~  
12 ~~but is solely an obligation of the Prepaid Tuition Trust Fund. The state has no obligation to any~~  
13 ~~designated beneficiary or any other person as a result of the Prepaid Tuition Plan. All amounts~~  
14 ~~payable from the Prepaid Tuition Trust Fund are limited to amounts available in the Prepaid~~  
15 ~~Tuition Trust Fund.~~

16 ~~(d) Nothing in this article or in any prepaid tuition contract is a promise or guarantee of~~  
17 ~~admission to, continued enrollment in, or graduation from an eligible educational institution.~~

18 ~~(e) Effective March 8, 2003, the Prepaid Tuition Plan is closed to new contracts. Closing~~  
19 ~~the plan to new contracts does not affect any Prepaid Tuition Plan contracts in effect on March 8,~~  
20 ~~2003. All contract owners shall continue to pay any amounts due, including without limitation~~  
21 ~~monthly installments, penalties, and fees. Earnings derived from the investment of moneys in the~~

22 ~~Prepaid Tuition Trust Fund shall continue to accrue to the fund until the fund is closed in~~  
23 ~~accordance with this section. Upon a determination of the board that all outstanding contract~~  
24 ~~obligations to persons owning Prepaid Tuition Plan accounts have been satisfied as provided in~~  
25 ~~subsection (h) of this section, the plan shall be closed.~~

26 ~~(f) The board shall continue to have the actuarial soundness of the Prepaid Tuition Trust~~  
27 ~~Fund evaluated annually until the fund's closure.~~

28 ~~(g) On or before December 1, 2003, and each year until the Prepaid Tuition Trust Fund's~~  
29 ~~closure, the chairperson of the board shall submit to the Governor, the President of the Senate,~~  
30 ~~the Speaker of the House of Delegates, the Joint Committee on Government and Finance, and~~  
31 ~~the unclaimed property administrator a report certified by an actuary of the actuarial status of the~~  
32 ~~Prepaid Tuition Trust Fund at the end of the fiscal year immediately preceding the date of the~~  
33 ~~report.~~

34 ~~(h) Escrow fund; expenditures.—~~

35 ~~(1) The Prepaid Tuition Trust Escrow Fund is continued in the State Treasury to guarantee~~  
36 ~~payment of outstanding obligations of the Prepaid Tuition Plan. The board shall invest the Prepaid~~  
37 ~~Tuition Trust Escrow Fund in accordance with the provisions of this article in fixed income~~  
38 ~~securities, and all earnings of the escrow fund shall accrue to the escrow fund and be available~~  
39 ~~for expenditure in accordance with this section.~~

40 ~~(2) In the event the money in the Prepaid Tuition Trust Fund is insufficient to cover the~~  
41 ~~amount of money needed to meet the outstanding obligations of the Prepaid Tuition Trust Plan,~~  
42 ~~the board may withdraw from the Prepaid Tuition Trust Escrow Fund the amount of money needed~~  
43 ~~to meet outstanding obligations of the Prepaid Tuition Trust Plan.~~

44 ~~(3) To the extent possible, the board shall satisfy outstanding contract obligations to~~  
45 ~~persons owning Prepaid Tuition Plan accounts, on a pro rata basis as their interests may appear.~~  
46 ~~Any account owner assets presumed abandoned shall be reported and remitted to the unclaimed~~  
47 ~~property administrator in accordance with the Uniform Unclaimed Property Act in §36-8-1 et seq.~~

48 of this code: ~~Provided, That notwithstanding the requirements of said article, account owner~~  
49 ~~assets are presumed abandoned 60 days after final payment checks for their remaining plan units~~  
50 ~~are issued and said checks have not been presented for payment.~~

51 ~~(i) After all outstanding obligations of the Prepaid Tuition Trust Plan have been satisfied in~~  
52 ~~accordance with this section, any moneys remaining in the Prepaid Tuition Trust Fund and the~~  
53 ~~Prepaid Tuition Trust Escrow Fund shall be allocated as follows:~~

54 ~~(1) Five million dollars shall be transferred to the West Virginia Savings and Investment~~  
55 ~~Program Fulfillment Fund, as set forth in §18-30-6a of this code.~~

56 ~~(2) Up to \$1,000,000 may be maintained in the Prepaid Tuition Trust Escrow Fund, at the~~  
57 ~~election of the board, for a period not to exceed 10 years following the closure of the Fund for the~~  
58 ~~purpose of satisfying any claims against the Prepaid Tuition Trust Plan arising after the plan's~~  
59 ~~closure: *Provided, That upon the expiration of 10 years following the date of closure of the Prepaid*~~  
60 ~~Tuition Trust Fund or when the balance of the Prepaid Tuition Trust Escrow Fund is zero,~~  
61 ~~whichever occurs first, the account shall be closed and any moneys remaining in the Prepaid~~  
62 ~~Tuition Trust Escrow Fund upon said fund's closure shall revert to the state's General Revenue~~  
63 ~~Fund.~~

64 ~~(3) All moneys remaining, after the allocations provided in subdivisions (1) and (2) of this~~  
65 ~~subsection, shall revert to the General Revenue Fund.~~

66 ~~(j) To fulfill the charitable and public purpose of this article, neither the earnings nor the~~  
67 ~~corpus of the Prepaid Tuition Trust Fund or the Prepaid Tuition Trust Escrow Fund is subject to~~  
68 ~~taxation by the state or any of its political subdivisions.~~

69 ~~(k) Notwithstanding any provision of this code to the contrary, money in the Prepaid Tuition~~  
70 ~~Trust Fund and the Prepaid Tuition Trust Escrow Fund is exempt from creditor process and not~~  
71 ~~subject to attachment, garnishment, or other process; is not available as security or collateral for~~  
72 ~~any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge, encumbrance, or~~  
73 ~~charge; and is not subject to seizure, taking, appropriation, or application by any legal or equitable~~



74 ~~process or operation of law to pay any debt or liability of any account owner, beneficiary, or~~  
75 ~~successor in interest.~~

76 ~~The provisions of this section may not be construed to interfere with the operation of the~~  
77 ~~savings plan authorized under this article.~~

78 (a) The board may implement the program through use of financial organizations as  
79 account depositories and managers. The board may solicit proposals from financial organizations  
80 to act as depositories and managers of the program. Financial organizations submitting proposals  
81 shall describe the investment instruments which will be held in accounts. The board may select  
82 more than one financial organization and investment instrument for the program. The board shall  
83 select financial organizations to act as program depositories and managers, based on the  
84 following criteria:

85 (1) The financial stability and integrity of the financial organization;

86 (2) The safety of the investment instrument being offered;

87 (3) The ability of the financial organization to satisfy recordkeeping and reporting  
88 requirements;

89 (4) The financial organization's plan for promoting the program and the investment the  
90 organization is willing to make to promote the program;

91 (5) The fees, if any, proposed to be charged to the account owners;

92 (6) The minimum initial deposit and minimum contributions that the financial organization  
93 will require;

94 (7) The ability of the financial organization to accept electronic deposits and withdrawals,  
95 including payroll deduction plans; and

96 (8) Other benefits to the state or its residents included in the proposal, including fees  
97 payable to the state to cover expenses of operation of the program.

98           (b) The board may enter into any contracts with a financial organization necessary to  
99 effectuate the provisions of this article. Any management contract shall include, at a minimum,  
100 terms requiring the financial organization to:

101           (1) Take any action required to keep the program in compliance with requirements of this  
102 article and any other applicable state or federal law;

103           (2) Keep adequate records of each account, keep each account segregated from each  
104 other account, and provide the board with the information necessary to prepare the statements  
105 required by this article and other applicable state and federal laws;

106           (3) Compile, summarize, and total information contained in statements required to be  
107 prepared under this article and applicable state and federal laws and provide such compilations  
108 to the board;

109           (4) Provide the board with access to the books and records of the program manager and  
110 with any other information needed to determine compliance with the contract, this article, and any  
111 other applicable state or federal law;

112           (5) Hold all accounts for the benefit of the account owner or owners;

113           (6) Be audited at least annually by a firm of certified public accountants selected by the  
114 program manager and provide the results of such audit to the board;

115           (7) Provide the board with copies of all regulatory filings and reports made by the financial  
116 organization during the term of the management contract or while the financial organization is  
117 holding any accounts, other than confidential filings or reports that will not become part of the  
118 program. The program manager shall make available for review by the board and the Treasurer  
119 the results of any periodic examination of such manager by any state or federal banking,  
120 insurance, or securities commission, except to the extent that such report or reports may not be  
121 disclosed under law; and

122           (8) Ensure that any description of the program, whether in writing or through the use of  
123 any medium, is consistent with the marketing plan developed pursuant to the provisions of this

124 article.

125 (c) The board may:

126 (1) Enter into contracts it deems necessary for the implementation of the program,  
 127 including but not limited to a contract with a financial institution, manager, consultant or other  
 128 professional to provide services to both the College Savings Program and the Jumpstart Savings  
 129 Program, established in §18-30A-1 et seq. of this code;

130 (2) Require that an audit be conducted of the operations and financial position of the  
 131 program depository and manager at any time if the board has any reason to be concerned about  
 132 the financial position, the record keeping practices, or the status of accounts of such program  
 133 depository and manager; and

134 (3) Terminate or decline to renew a management agreement: *Provided*, That if the board  
 135 terminates or does not renew a management agreement, the board shall seek to promptly transfer  
 136 such accounts to another financial organization that is selected as a program manager or  
 137 depository and into investment instruments as similar to the original instruments as possible.

**§18-30-6a. Special revenue account created for fulfillment of savings and investment programs.**

1 [Repealed].

**§18-30-8. The College prepaid tuition and Jumpstart Savings program Administrative Account.**

(a) There is hereby ~~created~~ continued a separate account within the State Treasurer's office titled the "college prepaid tuition and savings program administrative account", which shall hereafter be known as "the College and Jumpstart Savings Administrative Account". Expenditures from the account shall be for the purposes of implementing, operating, and maintaining the trust funds and program created by this article and the program created by §18-30A-1 et seq. of this code. On the effective date of this section, all moneys in the prepaid tuition trust fund administrative account are hereby transferred to the college prepaid tuition and savings program

~~administrative account.~~

1           **(b)** The administrative account shall receive all fees, charges, and penalties collected by  
 2 the board. Expenditures from the fund are authorized from collections ~~subject to appropriations~~  
 3 ~~made by the Legislature.~~ Any balance, including accrued interest and other returns, remaining in  
 4 the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall  
 5 remain in the fund to be expended as authorized by this section.

**§18-30-10. Reports and account; annual audit.**

1           (a) In addition to any other requirements of this article, the board shall:

2           (1) ~~Provide annually summary information on the financial condition of the prepaid tuition~~  
 3 ~~trust fund and~~ annual statements on the savings plan accounts to the respective account owners;  
 4 and

5           (2) Prepare, or have prepared, a quarterly report on the status of the program, including  
 6 the trust funds and the administrative account, and provide a copy of the report to the Joint  
 7 Committee on Government and Finance and the Legislative Oversight commission on education  
 8 accountability. ~~and~~

9           ~~(3) Prepare, or have prepared, an annual actuarial report of the prepaid tuition trust fund~~  
 10 ~~and transmit a copy of the report to the Governor, the President of the Senate, the Speaker of the~~  
 11 ~~House of Delegates and the Legislative Oversight commission on education accountability.~~

12           (b) All accounts of the board, including the trust funds, are subject to an annual external  
 13 audit by an accounting firm, selected by the board, of which all members or partners assigned to  
 14 head the audit are members of the American institute of certified public accountants. The audit  
 15 shall comply with the requirements of §5A-2-33 of this code.

**§18-30-11. Financial aid eligibility.**

1           The calculations of a beneficiary's eligibility for state student financial aid for higher  
 2 education may not include or consider ~~the value of distributions available in a prepaid tuition~~  
 3 ~~account~~ or the value of distributions available in a savings plan account.

**§18-30-13. Board of Trustees; authorization of rules. Remaining obligations of the Prepaid Tuition Program and Escrow Fund.**

1       ~~The legislative rules filed in the state register on September 30, 1997, modified by the~~  
 2       ~~board of trustees of the West Virginia prepaid tuition trust fund to meet the objections of the~~  
 3       ~~Legislative Oversight commission on education accountability and refiled in the state register on~~  
 4       ~~January 30, 1998, relating to the West Virginia prepaid tuition trust fund (rules for the West Virginia~~  
 5       ~~prepaid tuition trust fund), are authorized.~~

6       (1) The Prepaid Tuition Trust Escrow Fund, which was previously authorized by §18-30-6  
 7       of this code, is continued in the State Treasury to guarantee payment of outstanding obligations  
 8       of the Prepaid Tuition Plan arising after the Plan's closure. The board is authorized to take any  
 9       action necessary to satisfy obligations of the Prepaid Tuition Plan arising after the Plan's closure.

10       (2) The Prepaid Tuition Trust Escrow Fund shall consist of any moneys in the fund on the  
 11       effective date of this section. Up to \$1,000,000 may be maintained in the Prepaid Tuition Trust  
 12       Escrow Fund for a period not to exceed 10 years following the closure of the Prepaid Tuition Fund  
 13       for the purpose of satisfying any claims against the Prepaid Tuition Trust Plan arising after the  
 14       plan's closure: *Provided*, That upon the expiration of 10 years following the date of closure of the  
 15       Prepaid Tuition Trust Fund or when the balance of the Prepaid Tuition Trust Escrow Fund is zero,  
 16       whichever occurs first, the account shall be closed and any moneys remaining in the Prepaid  
 17       Tuition Trust Escrow Fund upon said fund's closure shall revert to the state's General Revenue  
 18       Fund.

19       (3) The board shall invest the Prepaid Tuition Trust Escrow Fund, in accordance with the  
 20       provisions of this article, in fixed income securities, and all earnings of the fund shall accrue to  
 21       the fund and be available for expenditure in accordance with this section.

**ARTICLE 30A. WEST VIRGINIA JUMPSTART SAVINGS ACT.**

**§18-30A-2. Findings.**

1       (a) The Legislature recognizes the importance of cultivating an environment in West

2 Virginia where our tradespersons and entrepreneurs can be successful in their careers and  
 3 remain in their home state. The Legislature finds that a savings and investment program to assist  
 4 our citizens who wish to embark on a new trade or establish a new business within this state, is  
 5 an investment in the future of West Virginia and its hardworking citizens.

6 (b) The Legislature further finds that, whenever possible, this article should be read in *pari*  
 7 *materia* and construed in harmony with the West Virginia College Savings Program Act, §18-30-1  
 8 *et seq.* of this code.

9 (c) The Legislature further finds that interests in the Jumpstart Savings Program Trust are  
 10 intended:

11 (1) To qualify for relevant federal securities law exemptions for public instrumentalities of  
 12 a state; and

13 (2) To be exempt from registration under Chapter 32 of the West Virginia Code, titled the  
 14 “Uniform Securities Act.”

**§18-30A-3. Definitions.**

1 For the purposes of this article, the following terms shall have the following meanings:

2 (1) “Account owner” means the person who opens and invests money into a Jumpstart  
 3 Savings Account, as provided in this article.

4 (2) “Beneficiary” means the person designated as a beneficiary at the time an account is  
 5 established, or the individual designated as the beneficiary when the beneficiary is changed.

6 (3) The “board” means the Board of Trustees of the West Virginia College and Jumpstart  
 7 Savings Board Programs created in ~~§18-30A-5~~ §18-30-4 of this code.

8 (4) “Contribution” means any amount of money deposited into a Jumpstart Savings  
 9 Account according to the procedures established and required by the board or the Treasurer.

10 (5) “Deduction” as used in this article has the same meaning as when used in a  
 11 comparable context in the laws of the United States relating to income taxes, unless a different  
 12 meaning is clearly required. Deduction means and refers to a deduction allowable under the

13 federal income tax code for the purpose of determining federal taxable income or federal adjusted  
14 gross income, unless text clearly indicates otherwise.

15 (6) "Distributee" has the same meaning provided in §11-21-12m of this code.

16 (7) "Distribution" means any disbursement from an account.

17 (8) The term "family member", as used to describe a person's relationship to a designated  
18 beneficiary, includes any of the following:

19 (A) The spouse of the beneficiary;

20 (B) A child of the beneficiary or a descendant of the beneficiary's child;

21 (C) A brother, sister, stepbrother, or stepsister of the beneficiary;

22 (D) The father or mother of the beneficiary, or an ancestor of either;

23 (E) A first cousin of the beneficiary;

24 (F) A stepfather or stepmother of the beneficiary;

25 (G) A son or daughter of a brother or sister of the beneficiary;

26 (H) A brother or sister of the father or mother of the beneficiary;

27 (I) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or  
28 sister-in-law of the beneficiary; or

29 (J) The spouse of any person described in paragraphs ~~(A)~~ (B) through (I) of this  
30 subdivision.

31 (K) Any term set forth in this subdivision means and includes such term as established  
32 through a lawful adoption, including, but not limited to, adoptions of a child or children, or other  
33 natural person, by a natural person or natural persons who are not the father, mother, or  
34 stepparent of the child or person.

35 (9) "Labor organization" means any organization, agency, association, union, or employee  
36 representation committee of any kind that exists, in whole or in part, to assist employees in  
37 negotiating with employers concerning grievances, labor disputes, wages, rates of pay, or other  
38 terms or conditions of employment.

39 (10) The “program” refers to the Jumpstart Savings Program established by this article.

40 (11) The “Treasurer” refers to the West Virginia State Treasurer or his or her designee.

**§18-30A-5. The Board of Trustees of the West Virginia College and Jumpstart Savings Programs Board; members; terms; compensation, proceedings generally.**

1 ~~(a) The West Virginia Jumpstart Savings Program shall be administered by the Board of~~  
 2 ~~Trustees of the West Virginia College and Jumpstart Savings Board Programs. The board is~~  
 3 ~~created in §18-30A-4 §18-30-4 of this code and is a public instrumentality of the State of West~~  
 4 ~~Virginia.~~

5 ~~(b) The board consists of seven members and includes the following:~~

6 ~~(1) The State Treasurer;~~

7 ~~(2) The State Superintendent of Schools, or his or her designee;~~

8 ~~(3) The Chancellor of the West Virginia Community and Technical College System, or his~~  
 9 ~~or her designee;~~

10 ~~(4) Four members, appointed by the Governor, with knowledge, skill, and experience in~~  
 11 ~~trade occupations or businesses, to be appointed as follows:~~

12 ~~(A) A member representing a labor organization that represents tradespersons in this~~  
 13 ~~state;~~

14 ~~(B) A member representing a business or entity offering apprenticeships in this state; and~~

15 ~~(C) Two private citizens not employed by, or an officer of, the state or any political~~  
 16 ~~subdivision of the state.~~

17 ~~(c) The members designated in this section to be appointed by the Governor are so~~  
 18 ~~appointed with the advice and consent of the Senate.~~

19 ~~(d) Only state residents are eligible for appointment to the board.~~

20 ~~(e) Members appointed by the Governor serve a term of five years and are eligible for~~  
 21 ~~reappointment at the expiration of their terms. If there is a vacancy among appointed members,~~  
 22 ~~the Governor shall appoint a person meeting the requirements of this section to fill the unexpired~~



23 ~~term. Members of the board serve until the later of the expiration of the term for which the member~~  
 24 ~~was appointed or the appointment of a successor.~~

25 ~~(f) Members of the board serve without compensation. The Treasurer may pay all~~  
 26 ~~reasonable expenses, including travel expenses, actually incurred by board members in the~~  
 27 ~~conduct of their official duties. Expense payments are made from the Jumpstart Savings Expense~~  
 28 ~~Account and are made at the same rates and in the same manner as travel reimbursements are~~  
 29 ~~paid to state employees.~~

30 ~~(g) The Treasurer is the chairman and presiding officer of the board and shall appoint the~~  
 31 ~~employees the board considers advisable or necessary.~~

32 ~~(h) The board shall adopt bylaws and rules of procedure at its first official meeting. A~~  
 33 ~~majority of the members of the board constitutes a quorum for the transaction of the business of~~  
 34 ~~the board.~~

**§18-30A-6. Powers of the board to implement and administer the jumpstart Savings Program.**

1 (a) The board shall implement and administer the Jumpstart Savings Program in  
 2 accordance with this article and all applicable laws and regulations.

3 (b) The board is authorized to take any lawful action necessary to effectuate the provisions  
 4 of this article and successfully administer the program, subject to applicable state and federal law,  
 5 including, but not limited to, the following:

6 (1) Adopt and amend bylaws;

7 (2) Execute contracts and other instruments for necessary goods and services, employ  
 8 necessary personnel, and engage the services of private consultants, auditors, counsel,  
 9 managers, trustees, and any other contractor or professional needed for rendering professional  
 10 and technical assistance and advice: *Provided*, That selection of these services is not subject to  
 11 the provisions of §5A-3-1 *et seq.* of this code: *Provided, however*, That all expenditures and  
 12 monetary and financial transactions ~~shall~~ may be subject to periodic audits by ~~the Office of Chief~~

13 ~~Inspector, or the Legislative Auditor, or both;~~

14 (3) Implement the program through use of financial organizations as account depositories  
15 and managers, as provided in §18-30A-9 of this code;

16 (4) Develop and impose requirements, policies, procedures, and guidelines to implement  
17 and manage the program;

18 (5) Establish the method by which funds shall be allocated to pay for administrative costs  
19 and assess, collect, and expend administrative fees, charges, and penalties;

20 (6) Authorize the assessment, collection, and retention of fees and charges against the  
21 amounts paid into and the earnings on the trust funds by a financial institution, investment  
22 manager, fund manager, West Virginia Investment Management Board, the Board of Treasury  
23 Investments, or other professional managing or investing the trust funds and accounts;

24 (7) Invest and reinvest any of the funds and accounts under the board's control with a  
25 financial institution, an investment manager, a fund manager, the West Virginia Investment  
26 Management Board, the Board of Treasury Investments, or other professional investing the funds  
27 and accounts: *Provided*, That investments made under this article shall be made in accordance  
28 with the provisions of §44-6C-1 *et seq.* of this code;

29 (8) Solicit and accept gifts, including bequests or other testamentary gifts made by will,  
30 trust, or other disposition; grants; loans; aid; and property, real or personal of any nature and from  
31 any source, or to participate in any other way in any federal, state, or local governmental programs  
32 in carrying out the purposes of this article: *Provided*, That the board shall use the property  
33 received to effectuate the desires of the donor, and shall convert the property received into cash  
34 within 90 days of receipt; and

35 (9) Propose legislative rules for promulgation in accordance with §29A-3-1 *et seq.* of this  
36 code, including emergency rules when necessary.

37 (c) The board may enter into agreements with other states or agencies of, subdivisions of,  
38 or residents of those states related to the program or a program that is substantially similar to the

39 Jumpstart Savings program established by another state.

40 (d) The power and duties of the board provided in this article are in addition to the powers  
 41 and duties of the board provided in §18-30-1 et seq. of this code.

**§18-30A-8. West Virginia Jumpstart Savings Program Trust and Trust Fund; ~~and Expense~~  
**Fund created; administrative account.****

1 ~~(a) The board shall establish~~ There is hereby established the Jumpstart Savings Program  
 2 Trust, a public instrumentality of the State of West Virginia. The Jumpstart Savings Program Trust  
 3 shall offer and issue interests in the trust to eligible members of the public.

4 (b) There is hereby also established a Jumpstart Savings Program Trust Fund Account,  
 5 titled the Jumpstart Savings Trust Fund, within the accounts held by the Treasurer or with a  
 6 financial institution, an investment manager, a fund manager, the West Virginia Investment  
 7 Management Board, the Board of Treasury Investments, or any other person for the purpose of  
 8 managing and investing the trust fund. Assets of the Jumpstart Savings Program Trust are held  
 9 in trust for account owners and beneficiaries.

10 ~~(b)~~ (c) The Jumpstart Savings Trust Fund shall receive all moneys from account owners  
 11 on behalf of beneficiaries or from any other source, public or private. Earnings derived from the  
 12 investment of the moneys in the Jumpstart Savings Trust Fund shall remain in the fund, held in  
 13 trust in the same manner as contributions, except as refunded, applied for purposes of the  
 14 beneficiaries, and applied for purposes of maintaining and administering the program.

15 ~~(e)~~ (d) The corpus, assets, and earnings of the Jumpstart Savings Trust Fund do not  
 16 constitute public funds of the state and are available solely for carrying out the purposes of this  
 17 article. Any contract entered into by, or any obligation of the board on behalf of and for the benefit  
 18 of the program, does not constitute a debt or obligation of the state but is solely an obligation of  
 19 the Jumpstart Savings Trust Fund.

20 ~~(d)~~ (e) All interest derived from the deposit and investment of moneys in the Jumpstart  
 21 Savings Trust Fund shall be credited to the fund. At the end of any fiscal year, all unexpended

22 and unencumbered moneys in the trust fund may not be credited or transferred to the State  
23 General Fund or to any other fund.

24 ~~(e)~~ (f) In order to fulfill the charitable and public purposes of this article, neither the earnings  
25 nor the corpus of the Jumpstart Savings Trust Fund is subject to taxation by the state or any of  
26 its political subdivisions.

27 ~~(f)~~ (g) Notwithstanding any provision of this code to the contrary, money in the Jumpstart  
28 Savings Trust Fund is exempt from creditor process and not subject to attachment, garnishment,  
29 or other process; is not available as security or collateral for any loan, or otherwise subject to  
30 alienation, sale, transfer, assignment, pledge, encumbrance, or charge; and is not subject to  
31 seizure, taking, appropriation, or application by any legal or equitable process or operation of law  
32 to pay any debt or liability of any account owner, beneficiary, or successor in interest.

33 ~~(g) (1) The Jumpstart Savings Program Expense Fund is hereby established in the State~~  
34 ~~Treasury.~~

35 ~~(2) The Jumpstart Savings Expense Fund shall receive all fees, charges, and penalties~~  
36 ~~collected by the board. Expenditures from the fund are authorized from collections subject to~~  
37 ~~appropriations made by the Legislature.~~

38 ~~(3) All expenses incurred by the board or the Treasurer in developing and administering~~  
39 ~~the program shall be payable from the Jumpstart Savings Expense Fund.~~

40 (h) The College and Jumpstart Savings Administrative Account, established in §18-30-6  
41 of this Code, shall receive all fees, charges, and penalties collected by the board. All expenses  
42 incurred by the board or the Treasurer in developing and administering the program shall be  
43 payable from the College and Jumpstart Savings Administrative Account.

**§18-30A-9. Use of financial organizations as program depositories and managers.**

1 (a) The board may implement the program through use of financial organizations as  
2 account depositories and managers. The board may solicit proposals from financial organizations  
3 to act as depositories and managers of the program. Financial organizations submitting proposals

4 shall describe the investment instruments which will be held in accounts. The board may select  
5 more than one financial organization and investment instrument for the program. The board shall  
6 select financial organizations to act as program depositories and managers ~~from among the~~  
7 ~~bidding financial organizations that demonstrate the most advantageous combination, both to~~  
8 ~~potential program participants and this state,~~ based on the following criteria:

9 (1) The financial stability and integrity of the financial organization;

10 (2) The safety of the investment instrument being offered;

11 (3) The ability of the financial organization to satisfy recordkeeping and reporting  
12 requirements;

13 (4) The financial organization's plan for promoting the program and the investment the  
14 organization is willing to make to promote the program;

15 (5) The fees, if any, proposed to be charged to the account owners;

16 (6) The minimum initial deposit and minimum contributions that the financial organization  
17 will require;

18 (7) The ability of the financial organization to accept electronic deposits and withdrawals,  
19 including payroll deduction plans; and

20 (8) Other benefits to the state or its residents included in the proposal, including fees  
21 payable to the state to cover expenses of operation of the program.

22 (b) The board may enter into any contracts with a financial organization necessary to  
23 effectuate the provisions of this article. Any management contract shall include, at a minimum,  
24 terms requiring the financial organization to:

25 (1) Take any action required to keep the program in compliance with requirements of this  
26 article and any other applicable state or federal law;

27 (2) Keep adequate records of each account, keep each account segregated from each  
28 other account, and provide the board with the information necessary to prepare the statements  
29 required by this article and other applicable state and federal laws;

30 (3) Compile, summarize, and total information contained in statements required to be  
31 prepared under this article and applicable state and federal laws and provide such compilations  
32 to the board;

33 (4) Provide the board with access to the books and records of the program manager and  
34 with any other information needed to determine compliance with the contract, this article, and any  
35 other applicable state or federal law;

36 (5) Hold all accounts for the benefit of the account owner or owners;

37 (6) Be audited at least annually by a firm of certified public accountants selected by the  
38 program manager and provide the results of such audit to the board;

39 (7) Provide the board with copies of all regulatory filings and reports made by the financial  
40 organization during the term of the management contract or while the financial organization is  
41 holding any accounts, other than confidential filings or reports that will not become part of the  
42 program. The program manager shall make available for review by the board and the Treasurer  
43 the results of any periodic examination of such manager by any state or federal banking,  
44 insurance, or securities commission, except to the extent that such report or reports may not be  
45 disclosed under law; and

46 (8) Ensure that any description of the program, whether in writing or through the use of  
47 any medium, is consistent with the marketing plan developed pursuant to the provisions of this  
48 article.

49 (c) The board may:

50 (1) Enter into contracts it deems necessary for the implementation of the program,  
51 including, but not limited to, a contract with a financial institution, manager, consultant or other  
52 professional to provide services to both the Jumpstart Savings Program, and the College Savings  
53 Program, established in §18-30-1 et seq. of this code;

54 (2) Require that an audit be conducted of the operations and financial position of the  
55 program depository and manager at any time if the board has any reason to be concerned about

56 the financial position, the record keeping practices, or the status of accounts of such program  
57 depository and manager; and

58 (3) Terminate or decline to renew a management agreement. If the board terminates or  
59 does not renew a management agreement, the board ~~shall take custody of accounts held by such~~  
60 ~~program manager and~~ shall seek to promptly transfer such accounts to another financial  
61 organization that is selected as a program manager or depository and into investment instruments  
62 as similar to the original instruments as possible.