

By Mr. Walsh of Agawam, petition of Michael P. Walsh for legislation to establish the baccalaureate savings law to provide for a financial alternative for higher education. Education, Arts and Humanities.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Nine.

AN ACT TO CREATE THE BACCALAUREATE SAVINGS ACT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Baccalaureate Savings Act.

1 SECTION 2. Declaration of Purpose. It is declared that for the
2 benefit of the people of the commonwealth, the conduct and
3 increase of their commerce, the protection and enhancement of
4 their welfare, the development of continued prosperity and the
5 improvement of their health and living conditions, it is essential
6 that this and future generations of youth be given the fullest
7 opportunity to learn and to develop their intellectual and mental
8 capacities and skills; that to achieve these ends it is of the utmost
9 importance that Massachusetts residents be provided with
10 investment alternatives to enhance their financial access to
11 institutions of higher education. It is the intent of this act to
12 provide to the commonwealth an alternative low cost method of
13 borrowing for the purposes authorized and to encourage
14 enrollment in institutions of higher education located in the
15 commonwealth all in the execution of the public policy set forth
16 above.

1 SECTION 3. Definitions. The following terms shall have the
2 following meanings unless the context clearly indicates
3 otherwise: —

4 (a) "College savings bond", means general obligation bonds of
5 the commonwealth issued in accordance with this act and
6 designated as general obligation college savings bonds.

7 (b) "Institute of higher education", means public institutions of
8 higher education, any public universities, colleges and community
9 colleges now or hereafter established or authorized by the general
10 court; any nonpublicly supported postsecondary educational
11 organization located and authorized to operate in this
12 commonwealth which operates privately, not-for-profit.
13 "Institutions of higher education" does not include any
14 educational organization used for sectarian instruction, as a place
15 of religious teaching or worship or for any religious denomination
16 or the training of ministers, priests, rabbis or other professional
17 persons in the field of religion.

18 (c) "Authority" means the Baccalaureate Trust Authority.

1 SECTION 4. In order to provide investors with investment
2 alternatives to enhance their financial access to institutions of
3 higher education located in the commonwealth and in furtherance
4 of the public policy of this act, bonds authorized by the provisions
5 of this act, as may be issued and sold from time to time, and as
6 often as practicable, as college savings bonds in such amounts as
7 directed by the governor, upon recommendation by the secretary
8 of administration. Bonds to be issued and sold as college savings
9 bonds shall be designated by the governor and the secretary of
10 administration as "General Obligation College Savings Bonds" in
11 the proceedings authorizing the issuance of such bonds, and shall
12 be subject to all of the terms and provisions of this act, except
13 that college savings bonds may bear interest payable at such time
14 or times and may be sold at such prices and in such manner as
15 may be determined by the governor and the state treasurer. If
16 College Savings Bonds are sold at public sale, the public sale
17 procedures shall be as set forth as provided in this act. College
18 Savings Bonds may be sold at negotiated sale if the state treasurer
19 determines that a negotiated sale will result in either a more
20 efficient and economic sale of such bonds or greater access to such
21 bonds by investors who are residents of the commonwealth. If any
22 College Savings Bonds are sold at a negotiated sale, the
23 underwriter or underwriters to which such bonds are sold shall

24 (a) be organized, incorporated or have their principal place of
25 business in the commonwealth, or (b) in the judgment of the
26 secretary of administration have sufficient capability to make a
27 board distribution of such bonds to investors resident in the
28 commonwealth. In determining the aggregate principal amount
29 of College Savings Bonds that has been issued pursuant to this
30 act, the aggregate original principal amount of such bonds issued
31 and sold shall be taken into account. Any bond issued under this
32 act shall be payable in one payment on a fixed date, unless the
33 governor and the state treasurer determine otherwise.

1 SECTION 5. Any College Savings Bonds issued in accordance
2 with this act shall be general obligations of the commonwealth
3 and subject to repayment as provided by law; however in the
4 proceedings of the governor and the state treasurer authorizing
5 the issuance of College Savings Bonds, such officials may cov-
6 enant on behalf of the commonwealth with or for the benefit of
7 the holders of such bonds as to all matters deemed advisable by
8 such officials, including the terms and conditions for creating and
9 maintaining sinking funds, reserve funds and such other special
10 funds as may be created in such proceedings, separate and apart
11 from all other funds and accounts of the commonwealth and such
12 officials may make such other covenants as may be deemed
13 necessary or desirable to assure the prompt payment of the
14 principal of and interest on such bonds.

1 SECTION 6. If fails to pay the principal of or interest on any
2 College Savings Bonds or premium, if any, as the same become
3 due, or shall fail to make any required monthly transfer of funds
4 to provide for the payment of such principal, interest or premium,
5 a civil action to compel payment may be instituted in the superior
6 court by the holder or holders of the College Savings Bonds with
7 respect to which such default of payment or failure to make a
8 required transfer exists. Delivery of a summons and a copy of the
9 complaint to the attorney general shall constitute sufficient service
10 to give the superior court jurisdiction of the subject matter of such
11 suit and jurisdiction over the commonwealth and its officers
12 named as defendants for the purpose of compelling such payment
13 or transfer.

1 SECTION 7. College savings bonds issued in accordance with
2 this act and the income derived therefrom shall be free from all
3 taxation by the commonwealth.

1 SECTION 8. The proceedings of the governor and the
2 secretary of administration authorizing the issuance of College
3 Savings Bonds shall also provide for additional financial
4 incentives to be provided to holders of such bonds to encourage
5 the enrollment of students at institutions of higher education
6 located in this commonwealth. Such financial incentives shall be
7 in such forms as determined by the governor and the secretary
8 of administration at the time of the authorization of such College
9 Savings Bonds and may include, among others, supplemental
10 payments to the holders of such bonds at maturity to be applied
11 to tuition costs at institutions of higher education located in the
12 commonwealth. Such financial incentives shall be provided only
13 if, in the sole judgment of the secretary, the cost of such incentives
14 shall not cause the cost to the commonwealth of the proceeds of
15 the College Savings Bonds being sold to be increased by more than
16 one-half of one percent. No such financial incentives shall be paid
17 to assist in the financing of the education of a student (i) in a school
18 or department of divinity for any religious denomination or (ii)
19 pursuing a course of study consisting of training to become a
20 minister, priest, rabbi or other professional person in the field of
21 religion.

1 SECTION 9. No contributions toward the purchase of the first
2 \$25,000 of bonds or accumulated bonds and interest shall be
3 considered in evaluating the financial situation of such student,
4 or be deemed a financial resource of or a form of financial aid
5 or assistance to such student, for purposes of determining the
6 eligibility of such student for any scholarship, grant or monetary
7 assistance awarded by the commission, the commonwealth or any
8 agency thereof; nor shall the first \$25,000 of any bond or interest
9 provided for a qualified student under this act reduce the amount
10 of any scholarship, grant or monetary assistance which such
11 student is entitled to be awarded by the commission, the
12 commonwealth or any agency thereof in accordance with the
13 provisions of any other section of this act or any other law.

1 SECTION 10. The board of regents shall develop and imple-
2 ment an educational program and marketing strategies designed
3 to inform parents about the options available for financing a
4 college education and the need to accumulate the financial
5 resources necessary to pay for a college education. The board shall
6 report to the governor and the general court on the program
7 developed and its operation prior to April thirtieth of each year.
8 The board of regents shall promulgate rules and regulations with
9 respect to their powers and duties pursuant to this act.

1 SECTION 11. (a) There is hereby created the Baccalaureate
2 Trust Authority. The Authority shall consist of 13 members, 8
3 of whom shall be appointed as follows: the minority leader and
4 speaker of the house of representatives and the president and
5 minority leader of the senate shall each appoint one, and the
6 governor shall appoint four. The state treasurer and the chancellor
7 of the board of regents.

8 The governor and legislative leaders shall give consideration to
9 selecting members that include representatives from the following
10 categories: a trustee, director, officer, or employee of a private
11 institution of higher education; a person having a favorable
12 reputation for skill, knowledge and experience in the field of state
13 and municipal finance, either as a partner, officer or employee
14 of an investment banking firm which originates and purchases
15 state and municipal securities, or as an officer or employee of an
16 insurance company or bank whose duties relate to the purchase
17 of state and municipal securities as an investment and to the
18 management and control of a state and municipal securities
19 portfolio; and a person experienced in and having a favorable
20 reputation for skill, knowledge and experience in the higher
21 education loan finance field. The board of regents representative
22 shall serve as the chairman. The appointed members of the
23 Authority first appointed shall serve for terms expiring on June
24 30 in 1989, 1990, 1991, 1992, 1993, 1994, 1995 and 1996,
25 respectively, or until their respective successors have been
26 appointed and have qualified, the initial term of each such member
27 to be determined by lot. Upon the expiration of the term of any
28 member his successor shall be appointed for a term of 6 years and
29 until his successor has been appointed and has qualified. Any

30 vacancy shall be filled in the manner of the original appointment
31 for the remainder of the unexpired term. Any member of the
32 Authority may be removed by the appointing authority for
33 misfeasance, malfeasance or wilful neglect of duty or other cause
34 after notice and a public hearing unless such notice and hearing
35 shall be expressly waived in writing. Members shall be
36 compensated for reasonable actual expenses from funds
37 appropriated to the Massachusetts Board of Higher Education.
38 Staff assistance shall be provided to the Authority by the
39 Massachusetts Board of Higher Education. The Authority shall
40 meet at least annually.

41 (b) The Authority shall have the following responsibilities:

42 (1) To make recommendations to the Bureau of the Budget
43 regarding the marketing of College Savings Bonds to ensure their
44 broad distribution throughout the State for educational purposes;

45 (2) To advise the Bureau of the Budget on an effective
46 advertising campaign to inform the general public about College
47 Savings Bonds and their availability;

48 (3) To advise the Governor and the Director of the Bureau of
49 the Budget regarding the increments in which to market the bonds
50 and recommend maturity dates which will make funds available
51 to purchasers at the time when such funds are needed for
52 educational purposes;

53 (4) To advise the Governor and Bureau of the Budget regarding
54 additional financial incentives as provided in this Act;

55 (5) To advise the Bureau of the Budget on limits that may be
56 imposed on the amount of College Savings Bonds that may be
57 purchased by individual households;

58 (6) To advise the Bureau of the Budget on the minimum
59 denominations to market the College Savings Bonds so that they
60 are affordable by individuals;

61 (7) To evaluate the feasibility of staggered or periodic forms
62 of payments for College Savings Bonds, and to advise the Bureau
63 of the Budget regarding such evaluation;

64 (8) After the initial sale of College Savings Bonds, to assess the
65 effectiveness of the program and recommend construction
66 changes to the Bureau of the Budget regarding future bond sales;

67 (9) To study and review alternative investment instruments with
68 respect to their suitability for a college saving program.

1 SECTION 12. Section 2 of the “General Obligation Bond
2 Act”, approved December 4, 1984, as amended, is amended to
3 read as follows: —

4 (Ch. 127, par. 652) [S.H.A. ch. 127, par. 652]

5 Section 2. Authorization for Bonds. The Commonwealth of
6 Massachusetts is authorized to issue, sell and provide for the
7 retirement of General Obligation Bonds of the Commonwealth
8 of Massachusetts in the total amount of \$2,796,433,072 herein
9 called “Bonds”.

10 Of the total amount of bonds authorized above, up to
11 \$300,000,000 in aggregate original principal amount may be
12 issued and sold in accordance with the Baccalaureate Savings Act
13 in the form of General Obligation College Savings Bonds.

14 The issuance and sale of Bonds pursuant to the General
15 Obligation Bond Act is an economical and efficient method of
16 financing the capital needs of the State. This Act will permit the
17 issuance of a multi-purpose General Obligation Bond with
18 uniform terms and features. This will not only lower the cost of
19 registration but also reduce the overall cost of issuing debt by
20 improving the marketability of Massachusetts General Obligation
21 Bonds.

22 Bonds shall be issued for the categories and specific purposes
23 expressed in Sections 2 through 8 and Section 16 of this Act.

1 SECTION 13. This Act takes effect upon becoming law.

