AN ACT

AMENDING THE EDUCATION TRUST ACT TO ELIMINATE RESIDENCY REQUIREMENTS AND AGE RESTRICTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 21-21K-5 NMSA 1978 (being Laws 1997, Chapter 259, Section 5, as amended) is amended to read:

"21-21K-5. COLLEGE INVESTMENT AGREEMENT.--

A. An investor may enter into a college investment agreement with the board under which the investor agrees to make investments into the fund from time to time for the purpose of defraying the costs of attendance billed by institutions of higher education. An investor may enter into a college investment agreement on behalf of any beneficiary. The board shall adopt a form of the college investment agreement to be used by the board and investors.

B. The board shall provide for the direct payment of principal, investment earnings and capital appreciation accrued pursuant to a college investment agreement to the institution of higher education that the beneficiary actually attends.

C. A college investment agreement may be terminated by the investor at any time. The investor may modify the college investment agreement to designate a new beneficiary instead of the original beneficiary if the new beneficiary meets the requirements of the original beneficiary on the date the designation is changed and if the original beneficiary:

(1) dies;

(2) is not admitted to an institution of higher education following proper application;

(3) elects not to attend an institution of higher education or, if attending, elects to discontinue higher education; or

(4) for any other circumstance approved by the board, does not exercise his rights under the college investment agreement.

D. The board shall provide, by rule, procedures for determining the amount to be refunded for college investment agreements terminated pursuant to the provisions of this section. The balance of the accrued investment earnings and capital appreciation less the amount refunded and administrative costs shall be credited to the fund.

E. The board shall establish a refund policy if a beneficiary receives additional student financial aid.

F. A college investment agreement terminates on the tenth anniversary of the date the beneficiary is projected to graduate from high school, not counting time spent by the beneficiary as an active-duty member of the

United States armed services.

G. Gifts and bequests to the fund may be made in the name of a specific beneficiary or in the name of the fund in general. Gifts and bequests given for the benefit of a specific beneficiary shall be credited to that beneficiary, and gifts and bequests given to the fund in general shall be credited equally to each beneficiary of a college investment agreement.

H. Principal paid into the fund, together with accrued investment earnings and capital appreciation, shall be excluded from any calculation of a beneficiary's state student financial aid eligibility.

I. The board shall annually notify each investor of the status of the education trust fund."