

SENATE BILL 140

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2000 Regular Session
0lr1325
CF 0lr0821

By: **Senator Miller, the President (Administration), and Senators
Kasemeyer, Hogan, Hoffman, Van Hollen, and Neall**

Introduced and read first time: January 18, 2000

Assigned to: Budget and Taxation and Economic and Environmental Affairs

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2000

CHAPTER _____

1 AN ACT concerning

2 **Maryland Prepaid College Trust and Maryland College Investment Plan**

3 FOR the purpose of changing the name of the Maryland Higher Education
4 Investment Program to the Maryland Prepaid College Trust; authorizing the
5 Maryland Higher Education Investment Board to provide for certain rebates to
6 owners of prepaid contracts under certain circumstances; requiring the Board to
7 allow the transfer of funds from certain ~~tuition~~ state tuition programs to other
8 state tuition programs under certain circumstances; requiring the Governor
9 under certain circumstances to include a certain amount for the Maryland
10 Prepaid College Trust in the annual budget submitted to the General Assembly;
11 providing that certain amounts paid into the Program by the State shall
12 constitute and be accounted for as advances to the Program; providing for the
13 repayment to the State of certain amounts paid into the Program subject to
14 certain rights; requiring the Board to allow certain benefits paid from the
15 Maryland Prepaid College Trust to be used toward certain higher education
16 expenses other than tuition and fees under certain circumstances; altering
17 certain requirements for a legislative audit of the Maryland Prepaid College
18 Trust; requiring a certain annual audit of the Maryland Prepaid College Trust;
19 establishing the Maryland College Investment Plan as a means to allow
20 individuals to make contributions to certain accounts for the purposes of
21 meeting certain higher education expenses; requiring the Maryland Higher
22 Education Investment Board to oversee the administration of the Plan;
23 providing that neither the faith and credit nor the taxing power of the State is
24 pledged to the payment of debts, prepaid contracts, and obligations of the Plan;
25 providing for the administration of the Plan; requiring the Board to maintain
26 the Plan in compliance with Internal Revenue Service standards for qualified
27 state tuition programs; providing that distributions from the Plan may be used

1 only for certain qualified higher education expenses; requiring the Board to
2 issue certain statements to participants at least annually; providing that the
3 assets and income of the Plan are exempt from State and local taxation;
4 requiring the Board to report to the Governor and General Assembly annually
5 concerning the audit and certain matters concerning the Plan; ~~providing~~
6 allowing a subtraction modification under the Maryland income tax for certain
7 contributions to an account under the Plan, subject to a certain limitation;
8 allowing certain amounts disallowed under the subtraction modification as a
9 result of a certain limitation to be carried over and subtracted for succeeding
10 taxable years; ~~providing~~ requiring an addition modification for certain
11 distributions made under ~~the Plan, subject to a certain limitation~~ certain
12 prepaid contracts and investment accounts; requiring an addition modification
13 for certain refunds under certain prepaid contracts and investment accounts;
14 allowing a subtraction modification for certain distributions under certain
15 prepaid contracts and investment accounts; providing for the construction and
16 application of this Act; defining certain terms; and generally relating to the
17 Maryland Higher Education Investment Board, the Maryland Prepaid College
18 Trust, and the Maryland College Investment Plan.

19 BY repealing and reenacting, with amendments,
20 Article - Education
21 Section 18-1901, 18-1903 through 18-1907, 18-1909 through 18-1911, and
22 18-1913 through 18-1916 to be under the amended subtitle "Subtitle 19.
23 Maryland Prepaid College Trust"
24 Annotated Code of Maryland
25 (1999 Replacement Volume)

26 BY adding to
27 Article - Education
28 Section 18-1906.1; and 18-19A-01 through 18-19A-07 to be under the new
29 subtitle "Subtitle 19A. Maryland College Investment Plan"
30 Annotated Code of Maryland
31 (1999 Replacement Volume)

32 BY repealing and reenacting, without amendments,
33 Article - Tax - General
34 Section 10-205(a), 10-207(a), and 10-208(a)
35 Annotated Code of Maryland
36 (1997 Replacement Volume and 1999 Supplement)

37 BY repealing and reenacting, with amendments,
38 Article - Tax - General
39 Section 10-205(h), 10-207(s), and 10-208(n)
40 Annotated Code of Maryland
41 (1997 Replacement Volume and 1999 Supplement)

1 BY adding to
 2 Article - Tax - General
 3 Section ~~10-205(i)~~ and 10-208(o)
 4 Annotated Code of Maryland
 5 (1997 Replacement Volume and 1999 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Chapter 110 of the Acts of the General Assembly of 1997
 8 Section 5

9 BY repealing and reenacting, with amendments,
 10 Chapter 111 of the Acts of the General Assembly of 1997
 11 Section 5

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Education**

15 Subtitle 19. Maryland [Higher Education Investment Program] PREPAID COLLEGE
 16 TRUST.

17 18-1901.

18 (a) In this subtitle the following words have the meanings indicated.

19 (b) "Board" means the [Board of the] Maryland Higher Education Investment
 20 [Program] BOARD.

21 (C) "CURRENT PREPAID CONTRACT OBLIGATIONS" MEANS THE SCHEDULED
 22 PAYMENTS DUE FOR THE NEXT FISCAL YEAR UNDER EXISTING PREPAID CONTRACTS.

23 [(c)] (D) "Eligible institution of higher education" means an institution of
 24 higher education that:

25 (1) Offers an associate, bachelor, or graduate degree program; and

26 (2) Is eligible to participate in federal financial aid programs.

27 [(d)] (E) "[Higher education investment] PREPAID contract" means a contract
 28 between the Board and a purchaser under the provisions of this subtitle for the
 29 advance payment of [undergraduate or graduate tuition at a fixed and guaranteed
 30 level] QUALIFIED HIGHER EDUCATION EXPENSES by the purchaser for a qualified
 31 beneficiary to attend an eligible institution of higher education, if the qualified
 32 beneficiary is admitted to the institution.

33 (F) "MARKET VALUE OF PROGRAM ASSETS" MEANS THE ~~FAIR MARKET VALUE~~
 34 AMOUNT OF THE ASSETS OF THE PROGRAM PLUS THE CASH AND CASH

1 EQUIVALENTS HELD BY THE PROGRAM PLUS THE FAIR MARKET VALUE OF OTHER
 2 ASSETS OF THE PROGRAM.

3 (G) "PLAN" MEANS THE MARYLAND COLLEGE INVESTMENT PLAN
 4 ESTABLISHED UNDER SUBTITLE 19A OF THIS TITLE.

5 [(e)] (H) "Program" means the Maryland [Higher Education Investment
 6 Program] PREPAID COLLEGE TRUST ESTABLISHED UNDER THIS SUBTITLE.

7 [(f)] (I) "Purchaser" means an individual who:

8 (1) Makes or undertakes the obligation to make advance payments of
 9 ~~undergraduate or graduate tuition~~ QUALIFIED HIGHER EDUCATION EXPENSES as
 10 provided under a [higher education investment] PREPAID contract; and

11 (2) Except as provided in § 18-1909(b) of this subtitle, is a resident of
 12 Maryland or of the District of Columbia at the time that the purchaser enters into a
 13 [higher education investment] PREPAID contract.

14 [(g)] (J) "Qualified beneficiary" means an individual who:

15 (1) Is eligible to apply advance ~~tuition~~ payments OF QUALIFIED HIGHER
 16 EDUCATION EXPENSES to undergraduate or graduate ~~tuition~~ QUALIFIED HIGHER
 17 EDUCATION EXPENSES at an eligible institution of higher education under the
 18 provisions of this subtitle; and

19 (2) Except as provided in § 18-1909(b) of this subtitle, is a resident of the
 20 State or of the District of Columbia at the time that the purchaser enters into a
 21 [higher education investment] PREPAID contract.

22 (K) "QUALIFIED HIGHER EDUCATION EXPENSES" HAS THE MEANING STATED
 23 IN § 529(E) OF THE INTERNAL REVENUE CODE.

24 (L) "QUALIFIED STATE TUITION PROGRAM" HAS THE MEANING STATED IN §
 25 529 OF THE INTERNAL REVENUE CODE.

26 [(h)] (M) "Tuition" means the charges imposed by an eligible institution of
 27 higher education for enrollment at the institution and includes registration and all
 28 fees required as a condition of enrollment.

29 18-1903.

30 (a) There is a Maryland [Higher Education Investment Program] PREPAID
 31 COLLEGE TRUST.

32 (b) The purpose of the Program is to provide:

33 (1) A means for payment of the cost of tuition in advance of enrollment at
 34 an eligible institution of higher education; and

1 (2) An assurance to a beneficiary who enrolls at an eligible institution of
2 higher education that the Board shall make every effort to invest the advance
3 payments so that the [higher education investment] PREPAID contract will cover the
4 average in-state tuition costs at public institutions of higher education in the State at
5 the time that the benefits are exercised.

6 (c) The funds of the Program consist of:

7 (1) Payments received from [higher education investment] PREPAID
8 contracts made under the provisions of this subtitle;

9 (2) Bequests, endowments, or funds from any other available private
10 source;

11 (3) Interest and income earned from the investments of the Program;
12 and

13 (4) Federal, State, or local funds, or funds from any other available
14 public source.

15 (d) Money remaining in the Program at the end of the fiscal year shall remain
16 in the Program and may not revert to the General Fund of the State.

17 (e) Moneys of the Program may not be considered moneys of the State and
18 may not be deposited into the Treasury.

19 (F) ~~MONEYS OF THE PROGRAM MAY NOT BE CONSIDERED MONEYS OF THE~~
20 ~~MARYLAND COLLEGE INVESTMENT PLAN AND MAY NOT BE COMMINGLED WITH THE~~
21 ~~PLAN.~~

22 [(f)] (G) (1) The debts, contracts, and obligations of the Program are not the
23 contracts, debts, or obligations of the State and neither the faith and credit nor taxing
24 power of the State is pledged directly or indirectly or contingently, morally or
25 otherwise, to the payment of the debts, contracts, and obligations.

26 (2) The Board cannot directly or indirectly or contingently obligate,
27 morally or otherwise, the State to levy or pledge any form of taxation whatsoever for
28 the debts and obligations of the Program or to make any appropriation for the
29 payment of the debts and obligations of the Program.

30 (H) ~~NEITHER THE STATE NOR ANY ELIGIBLE EDUCATIONAL INSTITUTION OF~~
31 ~~HIGHER EDUCATION SHALL BE LIABLE FOR ANY LOSSES OR SHORTAGE OF FUNDS IN~~
32 ~~THE EVENT THAT THE MARYLAND PREPAID COLLEGE TRUST IS INSUFFICIENT TO~~
33 ~~MEET THE TUITION REQUIREMENTS OF AN INSTITUTION ATTENDED BY THE~~
34 ~~DESIGNATED QUALIFIED BENEFICIARY.~~

35 18-1904.

36 (a) There is a Maryland Higher Education Investment Program Board.

1 (B) THE BOARD SHALL OVERSEE THE ADMINISTRATION OF:

2 (1) THE MARYLAND PREPAID COLLEGE TRUST ESTABLISHED UNDER
3 THIS SUBTITLE; AND

4 (2) THE MARYLAND COLLEGE INVESTMENT PLAN ESTABLISHED UNDER
5 SUBTITLE 19A OF THIS TITLE.

6 [(b)] (C) The Board consists of the following nine members:

7 (1) The Secretary of the Maryland Higher Education Commission;

8 (2) The State Superintendent of Schools;

9 (3) The State Treasurer;

10 (4) The State Comptroller; and

11 (5) Five members of the public who shall be appointed by the Governor
12 and shall have significant experience in finance, accounting, investment
13 management, or other areas that can be of assistance to the Board.

14 [(c)] (D) Before taking office, each appointee to the Board shall take the oath
15 required by Article I, § 9 of the Maryland Constitution.

16 [(d)] (E) (1) Except for the terms of the initial members of the Board, the
17 term of a public member of the Board is 4 years.

18 (2) The terms of the public members of the Board are staggered as
19 required by the terms of the members of the Board on October 1, 1998.

20 (3) At the end of a term, a public member continues to serve until a
21 successor is appointed and qualifies.

22 (4) A public member who is appointed after a term has begun serves only
23 for the remainder of the term and until a successor is appointed and qualifies.

24 (5) A public member is eligible for reappointment.

25 [(e)] (F) The Governor may remove a public member for incompetence or
26 misconduct.

27 18-1905.

28 (a) The Board, from among the members of the Board, shall elect a chairman
29 and may elect additional officers that the Board considers necessary.

30 (b) The Board shall determine the times and places of meetings.

31 (c) A member of the Board:

- 1 (1) May not receive compensation;
- 2 (2) Is entitled to reimbursement for expenses under the Standard State
3 Travel Regulations; and
- 4 (3) Shall file a public disclosure of financial interests as required under
5 the Maryland Public Ethics Law.
- 6 (d) (1) The Board:
- 7 (i) Shall appoint an executive director who is in the executive
8 service of the State Personnel Management System; and
- 9 (ii) May employ additional staff in accordance with the budget.
- 10 (2) (i) Except for employees described in subparagraph (ii) or (iii) of
11 this paragraph, the employees shall be skilled service employees subject to the
12 provisions of the State Personnel and Pensions Article that govern skilled service
13 employees.
- 14 (ii) An employee is in the professional service and subject to the
15 provisions of the State Personnel and Pensions Article that govern professional
16 service employees if the position:
- 17 1. Requires knowledge of an advanced type in a field of
18 science or learning customarily acquired by a course of specialized intellectual
19 instruction and study; and
- 20 2. Normally requires a professional license, an advanced
21 degree, or both.
- 22 (iii) An employee is in the management service and subject to the
23 provisions of the State Personnel and Pensions Article that govern management
24 service employees if the position:
- 25 1. Primarily involves direct responsibility for the oversight
26 and management of personnel and financial resources;
- 27 2. Requires the exercise of discretion and independent
28 judgment; and
- 29 3. Is not in the executive service.
- 30 (3) The Board may retain the services of consultants, administrators,
31 and other personnel, as necessary, to administer the Program OR THE PLAN.
- 32 (4) The budget for the Board and its staff is subject to review by the
33 General Assembly for information purposes only.
- 34 (e) The Board may adopt any regulations that the Board considers necessary
35 to carry out the provisions of this subtitle OR SUBTITLE 19A OF THIS TITLE.

- 1 (f) In addition, the Board may:
- 2 (1) Adopt an official seal;
- 3 (2) Sue and be sued;
- 4 (3) Execute contracts and other necessary instruments;
- 5 (4) Hold, buy, and sell instruments, obligations, securities, and other
6 investments consistent with its comprehensive investment plan;
- 7 (5) Enter into agreements with eligible institutions of higher education
8 and other public or private entities for the promotion, administration, or marketing of
9 the Program OR THE PLAN;
- 10 (6) Invest funds not required for immediate disbursement;
- 11 (7) Solicit and accept gifts, grants, loans, or other aid from any source or
12 participate in any government program for purposes consistent with this subtitle AND
13 SUBTITLE 19A OF THIS TITLE;
- 14 (8) Subject to the review of the General Assembly, impose and collect
15 reasonable administrative fees for any transactions involving [higher education
16 investment] PREPAID contracts or transactions affecting the Program OR THE PLAN;
- 17 (9) Procure insurance against any loss of assets of the Program OR THE
18 PLAN;
- 19 (10) Endorse insurance coverage written exclusively for the purpose of
20 protecting a [higher education investment] PREPAID contract and the purchaser and
21 qualified beneficiary of the contract;
- 22 (11) Designate terms under which money may be withdrawn from the
23 Program OR THE PLAN;
- 24 (12) Establish additional procedural and substantive requirements for
25 participation in and the administration or marketing of the Program OR THE PLAN;
- 26 (13) Appear on the Board's own behalf before other boards, commissions,
27 or other governmental agencies; and
- 28 (14) Take any other action that the Board considers appropriate to
29 implement and administer the Program OR THE PLAN.

30 18-1906.

31 (a) The Board shall adopt a comprehensive investment plan for the
32 administration of the Program.

33 (b) The plan shall specify the investment policies used by the Board in the
34 administration of the Program.

1 (c) Assets of the Program shall be invested in accordance with the
2 comprehensive investment plan.

3 (d) The comprehensive investment plan must indicate the percentage of assets
4 that shall be held in each class of investment, the amount of funds held in any cash
5 pool, the amount of funds held in fixed assets investments, the amount of funds held
6 in equity investments, and the percentage and dollar value of assets placed with
7 outside managers.

8 (e) (1) Notwithstanding any law restricting the deposit or investment of
9 State money, the Board may place assets of the Program in savings accounts or may
10 use the assets to purchase fixed or variable life insurance or annuity contracts,
11 securities, evidence of indebtedness, or other investment products pursuant to the
12 comprehensive investment plan.

13 (2) Any insurance, annuity contracts, savings, or other investment
14 products procured by the Board shall be underwritten and offered in compliance with
15 applicable federal and State laws.

16 (f) The Board shall make every effort to invest the assets of the Program in a
17 manner that earns, at a minimum, sufficient earnings to generate the difference
18 between the prepaid amount under [advance payment] PREPAID contracts and the
19 average in-state tuition costs at public institutions of higher education in the State at
20 the time that the benefits are exercised.

21 (g) The COMPREHENSIVE INVESTMENT plan shall provide for the Program to
22 be administered in an actuarially sound manner to assure that the Board may defray
23 obligations of the Program.

24 (h) The Board shall review the comprehensive investment plan at least
25 annually to assure that the Program remains actuarially sound.

26 [(i) After each annual review of the comprehensive investment plan for
27 actuarial soundness, the Board may adjust the terms of subsequent higher education
28 investment contracts to ensure continued actuarial soundness or, if necessary, may
29 adjust the terms of current higher education investment contracts.]

30 [(j)] (I) The Board may contract with an investment advisory or management
31 company for the investment and management of the Program as long as the Program
32 is administered in accordance with the comprehensive investment plan.

33 [(k)] (J) The Board:

34 (1) Shall preserve, invest, and expend the assets of the Program solely
35 for the purposes of this subtitle; and

36 (2) May not loan, transfer, or use the assets for any other purpose of the
37 State.

1 [(l)] (K) The Program is not subject to § 7-302 of the State Finance and
2 Procurement Article.

3 [(m)] (L) Unless the Board provides otherwise by regulation, the Board shall
4 use the proceeds in the Program in the following order:

5 (1) To pay eligible institutions of higher education in accordance with the
6 Board's obligations under [advance payment] PREPAID contracts;

7 (2) To refund money on the termination of [advance payment] PREPAID
8 contracts; and

9 (3) To pay the operating expenses of the Board.

10 (M) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, IF
11 THE BOARD DETERMINES AFTER AN ANNUAL REVIEW THAT THE ~~FAIR~~ MARKET
12 VALUE OF ~~THE~~ PROGRAM ASSETS EXCEEDS THE AMOUNT NECESSARY TO SATISFY
13 ALL SCHEDULED PAYMENTS CURRENTLY DUE OR SCHEDULED TO BECOME DUE
14 UNDER ALL PREPAID CONTRACTS BY 30% OR MORE, THE BOARD MAY PROVIDE FOR A
15 REBATE FROM THE EXCESS TO ~~OWNERS~~ PURCHASERS OF EXISTING PREPAID
16 CONTRACTS IN AN AMOUNT TO BE DETERMINED BY THE BOARD.

17 (2) THE BOARD MAY NOT REBATE ANY AMOUNT TO ~~OWNERS~~
18 PURCHASERS IF, WITHIN THE 5 YEARS IMMEDIATELY PRECEDING THE PROPOSED
19 REBATE:

20 (I) THE BOARD HAS REQUESTED AN APPROPRIATION UNDER §
21 18-1906.1 OF THIS SUBTITLE; OR

22 (II) THE PROGRAM HAS FAILED TO REPAY TO THE STATE ANY
23 APPROPRIATION UNDER § 18-1906.1 OF THIS SUBTITLE.

24 18-1906.1.

25 (A) IF THE CURRENT PREPAID CONTRACT OBLIGATIONS OF THE PROGRAM
26 EXCEED THE MARKET VALUE OF PROGRAM ASSETS, AT THE REQUEST OF THE BOARD
27 THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL SUBMITTED TO THE
28 GENERAL ASSEMBLY AN APPROPRIATION IN THE AMOUNT DETERMINED UNDER
29 SUBSECTION (B) OF THIS SECTION.

30 (B) THE APPROPRIATION TO BE INCLUDED IN THE BUDGET BILL UNDER
31 SUBSECTION (A) OF THIS SECTION SHALL EQUAL THE DIFFERENCE BETWEEN THE
32 CURRENT PREPAID CONTRACT OBLIGATIONS AND THE ~~FAIR~~ MARKET VALUE OF
33 PROGRAM ASSETS.

34 (C) FOR PURPOSES OF THIS SECTION, THE CURRENT PREPAID CONTRACT
35 OBLIGATIONS AND THE ~~FAIR~~ MARKET VALUE OF PROGRAM ASSETS:

1 (1) SHALL BE DETERMINED AS OF JUNE 30 OF THE CALENDAR YEAR
2 THAT ENDED BEFORE THE BEGINNING OF THE FISCAL YEAR FOR WHICH THE
3 APPROPRIATION IS REQUESTED; AND

4 (2) SHALL BE VERIFIED BY THE REPORT OF THE INDEPENDENT
5 OUTSIDE AUDITOR REQUIRED UNDER § 18-1916 OF THIS SUBTITLE.

6 (D) (1) THE AMOUNT APPROPRIATED UNDER THIS SECTION SHALL BE
7 DEPOSITED INTO THE PROGRAM.

8 (2) ALL AMOUNTS PAID INTO THE PROGRAM UNDER THIS SECTION
9 SHALL CONSTITUTE AND BE ACCOUNTED FOR AS ADVANCES TO THE PROGRAM.

10 (3) SUBJECT TO THE RIGHTS OF THE PROGRAM'S CONTRACT HOLDERS,
11 AMOUNTS APPROPRIATED UNDER THIS SECTION SHALL BE REPAID TO THE STATE
12 WITHOUT INTEREST IN EQUAL AMOUNTS IN EACH OF THE NEXT 2 FISCAL YEARS
13 SUCCEEDING THE ONE FOR WHICH THE APPROPRIATION WAS MADE.

14 (4) IF THE APPROPRIATION IN THE STATE BUDGET AS ENACTED BY THE
15 GENERAL ASSEMBLY IS LESS THAN THE AMOUNT SPECIFIED UNDER SUBSECTION (B)
16 OF THIS SECTION, THE BOARD MAY ADJUST THE TERMS OF SUBSEQUENT OR
17 CURRENT ~~HIGHER EDUCATION INVESTMENT~~ PREPAID CONTRACTS TO ENSURE
18 CONTINUED ACTUARIAL SOUNDNESS OF THE PROGRAM.

19 18-1907.

20 (a) In this section, "fiduciary" means:

21 (1) A member of the Maryland Higher Education Investment [Program]
22 Board; or

23 (2) An employee of the Maryland [Higher Education Investment
24 Program] PREPAID COLLEGE TRUST who exercises any discretionary authority or
25 control over:

26 (i) The management or administration of the Program; or

27 (ii) The management or disposition of the assets of the Program.

28 (b) A fiduciary shall discharge the fiduciary's duties with respect to the
29 Program:

30 (1) Solely in the interest of the participants;

31 (2) For the exclusive purposes of providing benefits to the participants
32 and providing reasonable expenses of administering the Program;

33 (3) With the care, skill, prudence, and diligence under the circumstances
34 then prevailing, that a prudent person acting in a like capacity and familiar with such
35 matters would use in the conduct of an enterprise of a like character with like aims;

- 1 (4) By diversifying the investments of the Program so as to minimize the
2 risk of large losses, unless under the circumstances it is clearly prudent not to do so;
- 3 (5) In accordance with the laws governing the Program; and
- 4 (6) In accordance with the documents and instruments governing the
5 Program to the extent that the documents and instruments are consistent with this
6 subtitle.
- 7 (c) In exercising authority, control, or discretion with respect to the Program,
8 a fiduciary may not:
- 9 (1) Use the assets of the Program for the fiduciary's own interest or
10 account;
- 11 (2) Act in a transaction involving the Program on behalf of a person, or
12 represent a person, if the interests of the person are adverse to the interests of the
13 Program or the interests of participants;
- 14 (3) Receive any consideration for the fiduciary's own account from a
15 person dealing with the Program in connection with a transaction involving the
16 assets of the Program; or
- 17 (4) Become an endorser or surety or, in any manner, an obligor, for
18 money lent to or borrowed from the Board.
- 19 18-1909.
- 20 (a) The Board shall establish a program of [higher education investment]
21 PREPAID contracts to provide for the advance payment of tuition and mandatory fees
22 at:
- 23 (1) A community college;
- 24 (2) A 4-year college;
- 25 (3) A university; or
- 26 (4) Any combination of a community college, college, or university.
- 27 (b) (1) For the purpose of entering into a [higher education investment]
28 PREPAID contract, either the purchaser or the qualified beneficiary must be a
29 resident of Maryland or of the District of Columbia at the time that the purchaser
30 enters into the PREPAID contract.
- 31 (2) For the purposes of determining residency for the purchase of a
32 [higher education investment] PREPAID contract:
- 33 (i) For residency in Maryland, "resident" has the meaning stated
34 in § 10-101(h) of the Tax - General Article; and

1 (ii) For residency in the District of Columbia, "resident" has the
2 meaning stated in § 47-1801.4 of the District of Columbia Code Annotated.

3 (c) The cost of a [higher education investment] PREPAID contract shall be
4 based on:

5 (1) The average current in-state tuition costs at the time the PREPAID
6 contract is purchased at public institutions of higher education in the State;

7 (2) The number of years expected to elapse between the purchase of a
8 [higher education investment] PREPAID contract and the use of the benefits of the
9 PREPAID contract; and

10 (3) The projected tuition costs at the time that the benefits will be
11 exercised.

12 (d) Each [higher education investment] PREPAID contract made under the
13 provisions of this subtitle shall include the following provisions:

14 (1) The amount of each payment and the number of payments required
15 from a purchaser;

16 (2) The terms and conditions under which purchasers shall remit
17 payments, including the dates of the payments;

18 (3) Provisions for late payment charges and defaults;

19 (4) Penalties for early withdrawal from the Program;

20 (5) The amount and terms of any administrative fees that must be paid
21 by the purchaser or the beneficiary;

22 (6) The name and date of birth of the qualified beneficiary on whose
23 behalf the contract is made;

24 (7) Terms and conditions for a substitution for the qualified beneficiary
25 originally named;

26 (8) Terms and conditions for the termination of the PREPAID contract;

27 (9) The time period during which the qualified beneficiary may claim
28 benefits from the Program;

29 (10) The maximum number of undergraduate semester hours that are
30 prepaid under the PREPAID contract, based on in-state tuition at a public institution
31 of higher education in the State;

32 (11) All other rights and obligations of the purchaser and the Program;

33 [(12) The following notice shall be printed on each contract in at least
34 10-point type: This contract is not an obligation of the State and neither the faith and

1 credit nor taxing power of the State is pledged directly or indirectly or contingently,
 2 morally or otherwise, to the payment of this contract. The Board cannot directly or
 3 indirectly or contingently obligate, morally or otherwise, the State to levy or pledge
 4 any form of taxation whatsoever or to make any appropriation for the payment of this
 5 contract;] and

6 [(13)] (12) Any other terms and conditions that the Board considers
 7 necessary or appropriate.

8 (e) The Board shall allow the conversion of [an advance payment contract
 9 plan from an existing purchaser's plan to any available plan] A PREPAID CONTRACT
 10 FROM ONE TUITION PLAN OR PAYMENT OPTION TO A DIFFERENT TUITION PLAN OR
 11 PAYMENT OPTION.

12 (F) THE BOARD SHALL ALLOW EXCESS PREPAID CONTRACT BENEFITS DUE TO
 13 RECEIPT OF A SCHOLARSHIP, TUITION REMISSION, OR EARLY GRADUATION ~~OF FROM~~
 14 COLLEGE TO BE USED TOWARD THE PAYMENT OF OTHER QUALIFIED HIGHER
 15 EDUCATION EXPENSES, AS SPECIFIED BY THE BOARD, AT AN ELIGIBLE INSTITUTION
 16 OF HIGHER EDUCATION.

17 (G) THE BOARD SHALL ALLOW THE TRANSFER OF FUNDS FROM THE
 18 PROGRAM TO ANY OTHER QUALIFIED STATE TUITION PROGRAM OR FROM ANY
 19 OTHER QUALIFIED STATE TUITION PROGRAM TO THE PROGRAM, IN ACCORDANCE
 20 WITH FEDERAL LAW.

21 (H) THE BOARD SHALL SET PROCEDURES TO ENSURE THAT CONTRIBUTIONS
 22 TO THE PROGRAM PLUS CONTRIBUTIONS OR PAYMENTS TO OTHER QUALIFIED
 23 STATE TUITION PROGRAMS DO NOT EXCEED A TOTAL MAXIMUM AMOUNT
 24 DETERMINED BY § 529 OF THE INTERNAL REVENUE CODE FOR CONTRIBUTIONS TO
 25 MULTIPLE QUALIFIED STATE TUITION PROGRAMS.

26 18-1910.

27 (a) (1) The Board shall issue refunds as specified in this section.

28 (2) Unless authorized [under regulations of] BY the Board or under
 29 subsection (b) of this section, a refund may not exceed the amount paid into the
 30 Program by the purchaser.

31 (b) A refund equal to the same benefits as provided by the PREPAID contract,
 32 minus any amount paid out of the funds of the Program on behalf of the qualified
 33 beneficiary and for reasonable administrative charges, shall be made if the
 34 beneficiary:

35 (1) ~~Is~~ GRADUATES EARLY FROM COLLEGE OR IS awarded a scholarship
 36 or tuition remission that covers benefits provided under the [higher education
 37 investment] PREPAID contract; or

38 (2) Dies or suffers from a disability which prevents the beneficiary from
 39 attending an institution of higher education within the time allowed by this subtitle.

1 (c) (1) A discounted refund of the contributions made to the Program, as
2 determined by the Board, shall be made if:

3 (i) The beneficiary does not attend an institution of higher
4 education;

5 (ii) Benefits are not exercised under the contract within a time
6 specified in the contract; or

7 (iii) The PREPAID contract is canceled by the purchaser.

8 (2) The time that a qualified beneficiary spends in active duty as a
9 member of the United States armed forces shall be added to the time period allowed
10 to exercise the benefits under a [higher education investment] PREPAID contract
11 before a termination under paragraph (1) of this subsection.

12 18-1911.

13 The Board, Program, and [higher education investment] PREPAID contracts
14 issued under this subtitle are not subject to the provisions of the Insurance Article.

15 18-1913.

16 A person may not attach, execute, garnish, or otherwise seize any current or
17 future benefit under a [higher education investment] PREPAID contract or any asset
18 of the Program.

19 18-1914.

20 (a) Nothing in this subtitle or in any [higher education investment] PREPAID
21 contract may be construed as a promise or guarantee by the Board of admission to,
22 continued enrollment at, or graduation from an institution of higher education.

23 (b) The actual tuition rate charged to a qualified beneficiary shall be
24 determined at the time of enrollment in accordance with the residency policy adopted
25 by the governing board of the institution of higher education at which the qualified
26 beneficiary enrolls.

27 18-1915.

28 The State and its agencies or any local government in the State may agree, by
29 contract or otherwise, to remit payments on behalf of an employee toward a [higher
30 education investment] PREPAID contract through payroll deductions.

31 18-1916.

32 (a) (1) The Legislative Auditor shall audit the Program [annually] AS
33 PROVIDED UNDER TITLE 2, SUBTITLE 12 OF THE STATE GOVERNMENT ARTICLE.

34 (2) THE BOARD SHALL CAUSE AN AUDIT OF THE PROGRAM TO BE MADE
35 BY AN OUTSIDE INDEPENDENT AUDITOR ANNUALLY.

1 [(2)] (3) The Board shall pay for the audit REQUIRED UNDER
2 PARAGRAPH (2) OF THIS SUBSECTION.

3 (b) (1) Within 90 days after the close of each fiscal year, the Board shall
4 submit to the Governor and, subject to § 2-1246 of the State Government Article, to
5 the General Assembly a report including:

6 (i) The [legislative] audit OF THE OUTSIDE INDEPENDENT
7 AUDITOR;

8 (ii) A financial accounting of the Program, including:

9 1. The annual review of the comprehensive investment plan
10 which shall include:

11 A. The status of the investment program, including
12 investment income matched to projected enrollment costs under the existing
13 [contract] PREPAID CONTRACTS;

14 B. The assets held in each class of investment, the amount of
15 funds held in any cash pool, the amount of funds held in fixed assets investments, and
16 the amount of funds held in equity investments;

17 C. The percentage and dollar value of assets placed with
18 outside managers;

19 D. The income produced by each class of investment; and

20 E. The income produced by each investment manager; and

21 2. A detailed account of the operating and administrative
22 budget for the Program, which shall include a complete list of revenue sources and
23 expenditures detailing the line item expenditures for:

24 A. Salaries, wages, and fringe benefits;

25 B. Technical and special fees;

26 C. Communication;

27 D. Travel;

28 E. Contractual services;

29 F. Supplies and materials;

30 G. Equipment;

31 H. Fixed charges; and

32 I. Other expenses.

1 (iii) The number of [higher education investment] PREPAID
2 contracts entered into during the previous fiscal year;

3 (iv) Efforts by the Board in marketing the Program of [higher
4 education investment] PREPAID contracts; and

5 (v) Any recommendations of the Board concerning the operation of
6 the Program.

7 (2) The Board shall make available to each purchaser a copy of a
8 summary of the report and the option to purchase the full report at a nominal charge.

9 SUBTITLE 19A. MARYLAND COLLEGE INVESTMENT PLAN.

10 18-19A-01.

11 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
12 INDICATED.

13 (B) "BOARD" MEANS THE MARYLAND HIGHER EDUCATION INVESTMENT
14 BOARD ESTABLISHED UNDER § 18-1904 OF THIS TITLE.

15 (C) "CONTRIBUTOR" MEANS THE PERSON WHO ESTABLISHES ~~A COLLEGE AN~~
16 INVESTMENT ~~PLAN~~ ACCOUNT ON BEHALF OF A QUALIFIED DESIGNATED
17 BENEFICIARY.

18 (D) "ELIGIBLE EDUCATIONAL INSTITUTION" HAS THE MEANING STATED IN §
19 529(E) OF THE INTERNAL REVENUE CODE.

20 (E) "INVESTMENT ACCOUNT" MEANS AN ACCOUNT ESTABLISHED BY A
21 CONTRIBUTOR UNDER THIS SUBTITLE ON BEHALF OF A QUALIFIED DESIGNATED
22 BENEFICIARY FOR THE PURPOSE OF APPLYING DISTRIBUTIONS TOWARD QUALIFIED
23 HIGHER EDUCATION EXPENSES AT ELIGIBLE EDUCATIONAL INSTITUTIONS.

24 (F) "QUALIFIED DESIGNATED BENEFICIARY" HAS THE MEANING STATED IN §
25 529(E) OF THE INTERNAL REVENUE CODE.

26 (G) "QUALIFIED HIGHER EDUCATION EXPENSES" HAS THE MEANING STATED
27 IN § 529(E) OF THE INTERNAL REVENUE CODE.

28 (H) "QUALIFIED STATE TUITION PROGRAM" HAS THE MEANING STATED IN §
29 529 OF THE INTERNAL REVENUE CODE.

30 (I) "PLAN" MEANS THE MARYLAND COLLEGE INVESTMENT PLAN
31 ESTABLISHED UNDER THIS SUBTITLE.

32 18-19A-02.

33 (A) THERE IS A MARYLAND COLLEGE INVESTMENT PLAN.

1 (B) THE PURPOSE OF THE ~~MARYLAND COLLEGE INVESTMENT~~ PLAN IS TO
2 ALLOW CONTRIBUTIONS TO AN INVESTMENT ACCOUNT ESTABLISHED FOR THE
3 PURPOSES OF MEETING THE QUALIFIED HIGHER EDUCATION EXPENSES OF THE
4 QUALIFIED DESIGNATED BENEFICIARY OF THE ACCOUNT.

5 (C) (1) THE BOARD SHALL ADMINISTER, MANAGE, PROMOTE, AND MARKET
6 THE ~~MARYLAND COLLEGE INVESTMENT~~ PLAN.

7 (2) THE BOARD SHALL ADMINISTER THE ~~MARYLAND COLLEGE~~
8 ~~INVESTMENT~~ PLAN IN COMPLIANCE WITH INTERNAL REVENUE SERVICE STANDARDS
9 FOR QUALIFIED STATE TUITION PROGRAMS.

10 (D) THE BOARD SHALL ADOPT PROCEDURES THAT THE BOARD CONSIDERS
11 NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

12 (E) THE BOARD SHALL ADOPT PROCEDURES RELATING TO:

13 (1) APPLICATION PROCEDURES FOR PARTICIPATION IN THE PLAN;

14 (2) START-UP COSTS INCURRED BY THE STATE FOR THE DEVELOPMENT
15 OF THE PLAN WITH THESE COSTS TO BE REIMBURSED TO THE STATE BY THE PLAN;

16 (3) EARLY WITHDRAWALS, SO THAT THERE WILL BE NO MAJOR
17 DETRIMENT TO THE REMAINING CONTRIBUTORS IN THE PLAN; AND

18 (4) TRANSFER OF FUNDS FROM THE PLAN TO OTHER QUALIFIED STATE
19 TUITION PROGRAMS AND FROM OTHER QUALIFIED STATE TUITION PROGRAMS TO
20 THE PLAN IN ACCORDANCE WITH FEDERAL LAW.

21 (F) AT LEAST ANNUALLY, THE BOARD SHALL ISSUE TO EACH CONTRIBUTOR
22 TO AN INVESTMENT ACCOUNT A STATEMENT THAT PROVIDES A SEPARATE
23 ACCOUNTING FOR EACH QUALIFIED DESIGNATED BENEFICIARY PROVIDING THE
24 FOLLOWING INFORMATION WITH RESPECT TO EACH ACCOUNT:

25 (1) THE BEGINNING BALANCE;

26 (2) CONTRIBUTIONS TO THE ACCOUNT;

27 (3) WITHDRAWALS FROM THE ACCOUNT DURING THE PREVIOUS YEAR;
28 AND

29 (4) ENDING INVESTMENT ACCOUNT VALUE.

30 18-19A-03.

31 (A) (1) THE BOARD MAY ISSUE REQUESTS FOR PROPOSALS TO EVALUATE
32 AND DETERMINE THE MEANS FOR THE ADMINISTRATION, MANAGEMENT,
33 PROMOTION, OR MARKETING OF THE ~~MARYLAND COLLEGE INVESTMENT~~ PLAN.

34 (2) THE BOARD SHALL CONSIDER PROPOSALS THAT MEET THE
35 FOLLOWING CRITERIA:

1 (I) ABILITY TO DEVELOP AND ADMINISTER AN INVESTMENT
2 PROGRAM OF A NATURE SIMILAR TO THE OBJECTIVES OF THE PLAN;

3 (II) ABILITY TO ADMINISTER FINANCIAL PROGRAMS WITH
4 INDIVIDUAL ACCOUNT RECORDS AND REPORTING;

5 (III) ABILITY TO MARKET THE PLAN TO MARYLAND RESIDENTS;

6 (IV) ABILITY TO MARKET THE PLAN TO NONRESIDENTS OF
7 MARYLAND; AND

8 (V) ABILITY TO COORDINATE THE PLAN WITH OTHER PROGRAMS
9 OR INFORMATIONAL SERVICES CONSIDERED BENEFICIAL BY THE BOARD,
10 INCLUDING THE MARYLAND PREPAID COLLEGE TRUST ESTABLISHED UNDER
11 SUBTITLE 19 OF THIS TITLE.

12 (B) (1) THE BOARD MAY REQUIRE AN INITIAL APPLICATION FEE TO BE USED
13 FOR ADMINISTRATIVE COSTS OF THE PLAN.

14 (2) THE BOARD MAY REQUIRE ADDITIONAL FEES ASSOCIATED WITH THE
15 EXPENSES OF THE PLAN.

16 (C) (1) CONTRIBUTIONS TO THE PLAN ON BEHALF OF A QUALIFIED
17 DESIGNATED BENEFICIARY MAY NOT EXCEED THE MAXIMUM AMOUNT DETERMINED
18 BY THE BOARD TO BE IN ACCORDANCE WITH § 529 OF THE INTERNAL REVENUE
19 CODE.

20 (2) CONTRIBUTIONS TO THE PLAN MAY BE MADE ONLY IN CASH OR
21 CASH EQUIVALENT.

22 (3) THE PLAN SHALL INCLUDE PROVISIONS FOR AUTOMATIC
23 CONTRIBUTIONS.

24 (D) THE BOARD SHALL ~~SET~~ ADOPT PROCEDURES TO ENSURE THAT
25 CONTRIBUTIONS TO THE PLAN PLUS CONTRIBUTIONS OR PAYMENTS TO OTHER
26 QUALIFIED STATE TUITION PROGRAMS DO NOT EXCEED A TOTAL MAXIMUM AMOUNT
27 DETERMINED UNDER § 529 OF THE INTERNAL REVENUE CODE FOR CONTRIBUTIONS
28 TO MULTIPLE QUALIFIED STATE TUITION PROGRAMS.

29 (E) (1) ~~THE MARYLAND COLLEGE INVESTMENT PLAN:~~

30 (I) SHALL BE ESTABLISHED IN THE FORM DETERMINED BY THE
31 BOARD; AND

32 (II) MAY BE ESTABLISHED AS A TRUST TO BE DECLARED BY THE
33 BOARD.

34 (2) THE PLAN MAY BE DIVIDED INTO MULTIPLE INVESTMENT
35 PORTFOLIOS.

1 (3) IF THE PLAN IS DIVIDED INTO MULTIPLE PORTFOLIOS AS PROVIDED
2 IN PARAGRAPH (2) OF THIS SUBSECTION, THE DEBTS, LIABILITIES, OBLIGATIONS,
3 AND EXPENSES INCURRED, CONTRACTED FOR, OR OTHERWISE EXISTING WITH
4 RESPECT TO A PARTICULAR PORTFOLIO SHALL BE ENFORCEABLE AGAINST THE
5 ASSETS OF THAT PORTFOLIO ONLY AND NOT AGAINST THE ASSETS OF THE PLAN
6 GENERALLY, IF:

7 (I) DISTINCT RECORDS ARE MAINTAINED FOR EACH PORTFOLIO;
8 AND

9 (II) THE ASSETS ASSOCIATED WITH EACH PORTFOLIO ARE
10 ACCOUNTED FOR SEPARATELY FROM THE OTHER ASSETS OF THE PLAN.

11 18-19A-04.

12 (A) A MARYLAND RESIDENT OR A NONRESIDENT OF MARYLAND MAY
13 PARTICIPATE IN AND BENEFIT FROM THE PLAN.

14 (B) DISTRIBUTIONS FROM THE PLAN MAY BE USED ONLY FOR QUALIFIED
15 ~~EDUCATIONAL~~ HIGHER EDUCATION EXPENSES.

16 (C) REFUNDS SHALL BE DISBURSED TO THE CONTRIBUTOR OF THE
17 INVESTMENT ACCOUNT.

18 18-19A-05.

19 (A) (1) THE DEBTS, CONTRACTS, AND OBLIGATIONS OF THE ~~MARYLAND~~
20 ~~COLLEGE INVESTMENT~~ PLAN ARE NOT THE CONTRACTS, DEBTS, OR OBLIGATIONS OF
21 THE STATE AND NEITHER THE FAITH AND CREDIT NOR TAXING POWER OF THE
22 STATE IS PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY, MORALLY OR
23 OTHERWISE, TO THE PAYMENT OF THE DEBTS, CONTRACTS, AND OBLIGATIONS.

24 (2) THE BOARD CANNOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY
25 OBLIGATE, MORALLY OR OTHERWISE, THE STATE TO LEVY OR PLEDGE ANY FORM OF
26 TAXATION WHATSOEVER FOR THE DEBTS AND OBLIGATIONS OF THE ~~MARYLAND~~
27 ~~COLLEGE INVESTMENT~~ PLAN OR TO MAKE ANY APPROPRIATION FOR THE PAYMENT
28 OF THE DEBTS AND OBLIGATIONS OF THE PLAN.

29 (B) NEITHER THE STATE NOR ANY ELIGIBLE EDUCATIONAL INSTITUTION
30 SHALL BE LIABLE FOR ANY LOSSES OR SHORTAGE OF FUNDS IN THE EVENT THAT
31 THE CONTRIBUTOR'S ~~COLLEGE INVESTMENT~~ PLAN ACCOUNT BALANCE IS
32 INSUFFICIENT TO MEET THE TUITION REQUIREMENTS OF AN INSTITUTION
33 ATTENDED BY THE QUALIFIED DESIGNATED BENEFICIARY.

34 (C) MONEYS OF THE PLAN MAY NOT BE CONSIDERED MONEYS OF THE STATE
35 OR DEPOSITED IN THE STATE TREASURY.

36 ~~(C)~~ (D) MONEYS OF THE PLAN MAY NOT BE CONSIDERED MONEYS OF OR
37 COMMINGLED WITH THE MARYLAND PREPAID COLLEGE TRUST ~~AND MAY NOT BE~~
38 ~~COMMINGLED WITH THE MARYLAND PREPAID COLLEGE TRUST.~~

1 18-19A-06.

2 THE ASSETS AND INCOME OF THE MARYLAND COLLEGE INVESTMENT PLAN
3 ARE EXEMPT FROM STATE AND LOCAL TAXATION.

4 18-19A-07.

5 (A) (1) THE LEGISLATIVE AUDITOR SHALL AUDIT THE PLAN AS PROVIDED
6 UNDER TITLE 2, SUBTITLE 12 OF THE STATE GOVERNMENT ARTICLE.

7 (2) THE BOARD SHALL OBTAIN AN ANNUAL AUDIT REPORT FROM
8 SERVICE PROVIDERS.

9 (B) (1) WITHIN 90 DAYS AFTER THE CLOSE OF EACH FISCAL YEAR, THE
10 BOARD SHALL SUBMIT TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE
11 GOVERNMENT ARTICLE, TO THE GENERAL ASSEMBLY A REPORT INCLUDING:

12 (I) A FINANCIAL ACCOUNTING OF THE PLAN, INCLUDING:

13 1. AN ANNUAL REVIEW OF THE PLAN WHICH SHALL
14 INCLUDE:

15 A. THE STATUS OF THE INVESTMENT PROGRAM;

16 B. THE ASSETS HELD IN EACH CLASS OF INVESTMENT;

17 C. THE PERCENTAGE AND DOLLAR VALUE OF ASSETS
18 PLACED WITH OUTSIDE MANAGERS;

19 D. THE INCOME PRODUCED BY EACH CLASS OF
20 INVESTMENT;

21 E. THE INCOME PRODUCED BY EACH INVESTMENT
22 MANAGER;

23 F. THE TOTAL DEPOSITS INTO THE PLAN FOR THE PAST
24 YEAR; AND

25 G. THE TOTAL WITHDRAWALS FROM THE PLAN FOR THE
26 PAST YEAR; AND

27 2. A DETAILED ACCOUNT OF THE OPERATING AND
28 ADMINISTRATIVE BUDGET FOR THE PLAN, WHICH SHALL INCLUDE A COMPLETE LIST
29 OF REVENUE SOURCES AND EXPENDITURES DETAILING THE LINE ITEM
30 EXPENDITURES FOR:

31 A. SALARIES, WAGES, AND FRINGE BENEFITS;

32 B. TECHNICAL AND SPECIAL FEES;

33 C. COMMUNICATION;

- 1 D. TRAVEL;
- 2 E. CONTRACTUAL SERVICES;
- 3 F. SUPPLIES AND MATERIALS;
- 4 G. EQUIPMENT;
- 5 H. FIXED CHARGES; AND
- 6 I. OTHER EXPENSES;

7 (II) THE NUMBER OF NEW CONTRIBUTORS TO INVESTMENT
8 ACCOUNTS DURING THE PREVIOUS FISCAL YEAR;

9 (III) EFFORTS IN MARKETING THE PLAN; AND

10 (IV) ANY RECOMMENDATIONS OF THE BOARD CONCERNING THE
11 OPERATION OF THE PLAN.

12 (2) THE BOARD SHALL MAKE AVAILABLE TO EACH CONTRIBUTOR TO AN
13 INVESTMENT ACCOUNT A COPY OF A SUMMARY OF THE REPORT AND THE OPTION TO
14 PURCHASE THE FULL REPORT AT A NOMINAL CHARGE.

15 **Article - Tax - General**

16 10-205.

17 (a) In addition to the modification under § 10-204 of this subtitle, the
18 amounts under this section are added to the federal adjusted gross income of a
19 resident to determine Maryland adjusted gross income.

20 (h) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
21 MEANINGS INDICATED.

22 (II) "CONTRIBUTOR" AND "QUALIFIED DESIGNATED BENEFICIARY"
23 HAVE THE MEANINGS STATED IN § 18-19A-01 OF THE EDUCATION ARTICLE.

24 (III) "PURCHASER" AND "QUALIFIED BENEFICIARY" HAVE THE
25 MEANINGS STATED IN § 18-1901 OF THE EDUCATION ARTICLE.

26 (IV) "QUALIFIED HIGHER EDUCATION EXPENSES" HAS THE
27 MEANING STATED IN § 529 OF THE INTERNAL REVENUE CODE.

28 (2) The addition under subsection (a) of this section includes the amount
29 of:

30 (I) any refund received by an individual in the taxable year BY A
31 PURCHASER under a [higher education investment] PREPAID contract in accordance
32 with the Maryland [Higher Education Investment Program] PREPAID COLLEGE
33 TRUST ~~that is not applied on behalf of the beneficiary for charges imposed by an~~

1 institution of higher education for enrollment at the institution, including tuition and
 2 registration and other fees required as a condition of enrollment OR A CONTRIBUTOR
 3 UNDER AN INVESTMENT ACCOUNT IN ACCORDANCE WITH THE MARYLAND COLLEGE
 4 INVESTMENT PLAN; OR

5 (II) ANY DISTRIBUTION RECEIVED IN THE TAXABLE YEAR BY A
 6 PURCHASER UNDER A PREPAID CONTRACT IN ACCORDANCE WITH THE MARYLAND
 7 PREPAID COLLEGE TRUST OR A CONTRIBUTOR UNDER AN INVESTMENT ACCOUNT IN
 8 ACCORDANCE WITH THE MARYLAND COLLEGE INVESTMENT PLAN THAT IS NOT
 9 USED ON BEHALF OF THE QUALIFIED BENEFICIARY OR QUALIFIED DESIGNATED
 10 BENEFICIARY FOR QUALIFIED HIGHER EDUCATION EXPENSES.

11 ~~(2)~~ (3) The amount of the addition required under this subsection shall
 12 be reduced by any amount included in the individual's federal adjusted gross income
 13 as a result of the refund.

14 ~~(3)~~ (4) The cumulative amount of the addition under this subsection
 15 for the taxable year and all prior taxable years may not exceed the cumulative
 16 amount allowed as a subtraction:

17 (I) under § 10-208(n) of this subtitle for the taxable year and all
 18 prior taxable years for the individual's PURCHASER'S payments to the [higher
 19 education investment] PREPAID contract under which the refund OR DISTRIBUTION
 20 is received; OR

21 (II) UNDER § 10-208(O) OF THIS SUBTITLE FOR THE TAXABLE YEAR
 22 AND ALL PRIOR TAXABLE YEARS FOR CONTRIBUTIONS MADE BY A CONTRIBUTOR TO
 23 AN INVESTMENT ACCOUNT UNDER WHICH THE REFUND OR DISTRIBUTION IS
 24 RECEIVED.

25 ~~(4)~~ (1) ~~IN THIS SUBSECTION, "INVESTMENT ACCOUNT", "QUALIFIED~~
 26 ~~DESIGNATED BENEFICIARY", "CONTRIBUTOR", AND "QUALIFIED HIGHER EDUCATION~~
 27 ~~EXPENSES" HAVE THE MEANINGS STATED IN § 18-19A-01 OF THE EDUCATION~~
 28 ~~ARTICLE.~~

29 ~~(2)~~ ~~THE ADDITION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES~~
 30 ~~THE AMOUNT OF ANY DISTRIBUTION RECEIVED BY A CONTRIBUTOR IN THE TAXABLE~~
 31 ~~YEAR FROM AN INVESTMENT ACCOUNT TO THE EXTENT THE DISTRIBUTION IS NOT~~
 32 ~~USED ON BEHALF OF THE QUALIFIED DESIGNATED BENEFICIARY FOR QUALIFIED~~
 33 ~~HIGHER EDUCATION EXPENSES.~~

34 ~~(3)~~ ~~THE AMOUNT OF THE ADDITION REQUIRED UNDER THIS~~
 35 ~~SUBSECTION SHALL BE REDUCED BY ANY AMOUNT INCLUDED IN THE~~
 36 ~~CONTRIBUTOR'S FEDERAL ADJUSTED GROSS INCOME AS A RESULT OF THE~~
 37 ~~DISTRIBUTION.~~

38 ~~(4)~~ ~~THE CUMULATIVE AMOUNT OF THE ADDITION UNDER THIS~~
 39 ~~SUBSECTION FOR THE TAXABLE YEAR AND ALL PRIOR TAXABLE YEARS MAY NOT~~
 40 ~~EXCEED THE CUMULATIVE AMOUNT ALLOWED AS A SUBTRACTION UNDER §~~
 41 ~~10-208(O) OF THIS SUBTITLE FOR THE TAXABLE YEAR AND ALL PRIOR TAXABLE~~

1 YEARS FOR THE CONTRIBUTOR'S CONTRIBUTIONS TO THE INVESTMENT ACCOUNT
2 FROM WHICH THE DISTRIBUTION IS RECEIVED.

3 10-207.

4 (a) To the extent included in federal adjusted gross income, the amounts under
5 this section are subtracted from the federal adjusted gross income of a resident to
6 determine Maryland adjusted gross income.

7 (s) (1) (I) In this subsection, ~~"tuition" means the charges imposed by an~~
8 ~~institution of higher education for enrollment at the institution and includes~~
9 ~~registration and all fees required as a condition of enrollment~~ THE FOLLOWING
10 WORDS HAVE THE MEANINGS INDICATED.

11 (II) "QUALIFIED BENEFICIARY" HAS THE MEANING STATED IN §
12 18-1901 OF THE EDUCATION ARTICLE.

13 (III) "QUALIFIED DESIGNATED BENEFICIARY" HAS THE MEANING
14 STATED IN § 18-19A-01 OF THE EDUCATION ARTICLE.

15 (IV) "QUALIFIED HIGHER EDUCATION EXPENSES" HAS THE
16 MEANING STATED IN § 529 OF THE INTERNAL REVENUE CODE.

17 (2) ~~The~~ EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION,
18 THE subtraction under subsection (a) of this section includes any amount included in
19 federal adjusted gross income as a result of a ~~benefit furnished~~ DISTRIBUTION to:

20 (I) a QUALIFIED beneficiary pursuant to a [higher education
21 investment] PREPAID contract under the Maryland [Higher Education Investment
22 Program] PREPAID COLLEGE TRUST; OR

23 (II) A QUALIFIED DESIGNATED BENEFICIARY FROM AN
24 INVESTMENT ACCOUNT UNDER THE MARYLAND COLLEGE INVESTMENT PLAN.

25 (3) The subtraction under paragraph (2) of this subsection does not apply
26 to:

27 (I) a refund under the Maryland [Higher Education Investment
28 Program] PREPAID COLLEGE TRUST ~~unless the refund is applied on behalf of the~~
29 ~~beneficiary to the cost of tuition at an institution of higher education~~ OR THE
30 MARYLAND COLLEGE INVESTMENT PLAN; OR

31 (II) A DISTRIBUTION THAT IS NOT USED BY THE QUALIFIED
32 BENEFICIARY OR QUALIFIED DESIGNATED BENEFICIARY FOR QUALIFIED HIGHER
33 EDUCATION EXPENSES.

1 10-208.

2 (a) In addition to the modification under § 10-207 of this subtitle, the
3 amounts under this section are subtracted from the federal adjusted gross income of
4 a resident to determine Maryland adjusted gross income.

5 (n) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
6 MEANINGS INDICATED.

7 (II) "PURCHASER" HAS THE MEANING STATED IN § 18-1901 OF THE
8 EDUCATION ARTICLE.

9 (III) "QUALIFIED HIGHER EDUCATION EXPENSES" HAS THE
10 MEANING STATED IN § 529 OF THE INTERNAL REVENUE CODE.

11 (2) The subtraction under subsection (a) of this section includes the
12 amount of advance payments of ~~undergraduate tuition~~ QUALIFIED HIGHER
13 EDUCATION EXPENSES made by ~~an individual~~ A PURCHASER during the taxable year
14 as provided under a [higher education investment] PREPAID contract in accordance
15 with the Maryland [Higher Education Investment Program] PREPAID COLLEGE
16 TRUST.

17 ~~(2)~~ (3) Subject to paragraph ~~(3)~~ (4) of this subsection, for each [higher
18 education investment] PREPAID contract, the subtraction under paragraph ~~(4)~~ (2) of
19 this subsection may not exceed \$2,500 for any taxable year.

20 ~~(3)~~ (4) The amount disallowed as a subtraction under this subsection
21 for any taxable year as a result of the limitation under paragraph ~~(2)~~ (3) of this
22 subsection shall be treated as having been made in the next succeeding taxable year
23 and, subject to the \$2,500 annual limitation for each [higher education investment]
24 PREPAID contract, may be carried over to succeeding taxable years until the full
25 amount of the advance payments has been allowed as a subtraction.

26 (O) (1) IN THIS SUBSECTION, "INVESTMENT ACCOUNT", "QUALIFIED
27 DESIGNATED BENEFICIARY", "CONTRIBUTOR", AND "QUALIFIED HIGHER EDUCATION
28 EXPENSES" HAVE THE MEANINGS STATED IN § 18-19A-01 OF THE EDUCATION
29 ARTICLE.

30 (2) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION
31 INCLUDES THE AMOUNT CONTRIBUTED BY A CONTRIBUTOR DURING THE TAXABLE
32 YEAR TO AN INVESTMENT ACCOUNT.

33 (3) SUBJECT TO PARAGRAPH (4) OF THIS SUBSECTION, FOR EACH
34 INVESTMENT ACCOUNT, THE SUBTRACTION UNDER PARAGRAPH (2) OF THIS
35 SUBSECTION MAY NOT EXCEED \$2,500 FOR ANY TAXABLE YEAR.

36 (4) THE AMOUNT DISALLOWED AS A SUBTRACTION UNDER THIS
37 SUBSECTION FOR ANY TAXABLE YEAR AS A RESULT OF THE LIMITATION UNDER
38 PARAGRAPH (3) OF THIS SUBSECTION SHALL BE TREATED AS HAVING BEEN
39 CONTRIBUTED IN THE NEXT 10 SUCCEEDING TAXABLE YEARS AND, SUBJECT TO THE

1 \$2,500 ANNUAL LIMITATION FOR EACH ~~COLLEGE SAVINGS PLAN INVESTMENT~~
2 ACCOUNT, MAY BE CARRIED OVER TO SUCCEEDING TAXABLE YEARS AS A
3 SUBTRACTION.

4

Chapter 110 of the Acts of 1997

5 SECTION 5. AND BE IT FURTHER ENACTED, That [any] THE TOTALITY
6 OF THE MARKETING efforts undertaken by the Maryland Higher Education
7 Investment [Program] Board to market the Maryland [Higher Education
8 Investment Program] PREPAID COLLEGE TRUST must include full disclosure that
9 the contract entered into under the provisions of this Act does not guarantee that the
10 earnings of the assets invested in the Program will generate the difference between
11 the projected costs of tuition under the contract and the actual costs at the time of
12 enrollment.

13

Chapter 111 of the Acts of 1997

14 SECTION 5. AND BE IT FURTHER ENACTED, That [any] THE TOTALITY
15 OF THE MARKETING efforts undertaken by the Maryland Higher Education
16 Investment [Program] Board to market the Maryland [Higher Education
17 Investment Program] PREPAID COLLEGE TRUST must include full disclosure that
18 the contract entered into under the provisions of this Act does not guarantee that the
19 earnings of the assets invested in the Program will generate the difference between
20 the projected costs of tuition under the contract and the actual costs at the time of
21 enrollment.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
23 construed and applied to affect all prepaid contracts purchased prior to the effective
24 date of this Act.

25 SECTION 3. AND BE IT FURTHER ENACTED, That ~~§§ 10-205(i) and~~
26 ~~10-208(e)~~ ~~§§ 10-205(h), 10-207(s), and 10-208(n) and (o)~~ of the Tax - General Article
27 as enacted under Section 1 of this Act shall be applicable to all taxable years
28 beginning after December 31, 2000.

29 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
30 July 1, 2000.