

CHAPTER 548

(House Bill 1534)

AN ACT concerning

College Savings Plans of Maryland

FOR the purpose of authorizing the College Savings Plans of Maryland Board to establish the Maryland Broker–Dealer College Investment Plan for certain purposes; requiring the Board to oversee the administration of the Broker–Dealer Plan; providing that neither the faith and credit nor the taxing power of the State is pledged to the payment of debts, contracts, and obligations of the Broker–Dealer Plan; providing for the administration of the Broker–Dealer Plan; requiring the Board to maintain the Broker–Dealer Plan in compliance with certain standards for qualified State tuition programs; requiring the Board to issue certain statements to participants at least annually; providing that the assets and the income of the Broker–Dealer Plan are exempt from State and local taxation; allowing a subtraction modification under the State income tax for certain contributions to an account under the Broker–Dealer Plan, ~~subject to a certain limitation~~; clarifying a certain limitation on certain subtraction modifications for certain contributions to certain accounts under the College Savings Plans of Maryland; allowing certain amounts disallowed under the subtraction modification as a result of a certain limitation to be carried over and subtracted for succeeding taxable years; requiring an addition modification for certain distributions made under certain investment accounts; allowing a subtraction modification for certain distributions under certain investment accounts; providing for the construction and application of this Act; clarifying certain distribution requirements and eliminating the reference to refunds under the Maryland College Investment Plan; defining certain terms; and generally relating to the Maryland College Investment Plan and the Maryland Broker–Dealer College Investment Plan.

BY repealing and reenacting, with amendments,

Article – Education

Section 18–1901, 18–1902.1, 18–1904(b), 18–1905, 18–19A–04, and 18–19A–05

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,

Article – Education

Section 18–1904(a)

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY adding to

Article – Education

Section 18–19B–01 through 18–19B–08 to be under the new subtitle “Subtitle 19B. Maryland Broker–Dealer College Investment Plan”

Annotated Code of Maryland

(2006 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, without amendments,

Article – Tax – General

Section 10–205(a), 10–207(a), and 10–208(a)

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

BY repealing and reenacting, with amendments,

Article – Tax – General

Section 10–205(h), 10–207(s), and 10–208(o)

Annotated Code of Maryland

(2004 Replacement Volume and 2007 Supplement)

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

Article – Education

18–1901.

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

(b) “Account holder” means an individual who:

(1) Makes or undertakes the obligation to make advance payments of qualified higher education expenses as provided under a prepaid contract; and

(2) Except as provided in § 18–1909(b) of this subtitle, is a resident of Maryland or of the District of Columbia at the time that the account holder enters into a prepaid contract.

(c) “Board” means the College Savings Plans of Maryland Board.

(D) “BROKER–DEALER PLAN” MEANS THE MARYLAND BROKER–DEALER COLLEGE INVESTMENT PLAN ESTABLISHED UNDER SUBTITLE 19B OF THIS TITLE.

[(d)] (E) “Current prepaid contract obligations” means the scheduled payments due for the next fiscal year under existing prepaid contracts.

[(e)] (F) “Eligible institution of higher education” means an institution of higher education that:

- (1) Offers an associate, bachelor, or graduate degree program; and
- (2) Is eligible to participate in federal financial aid programs.

[(f)] (G) “Market value of program assets” means the amount of cash and cash equivalents held by the Trust plus the fair market value of other assets of the Trust.

[(g)] (H) “Plan” means the Maryland College Investment Plan established under Subtitle 19A of this title.

[(h)] (I) “Prepaid contract” means a contract between the Board and an account holder under the provisions of this subtitle for the advance payment of qualified higher education expenses by the account holder for a qualified beneficiary to attend an eligible institution of higher education, if the qualified beneficiary is admitted to the institution.

[(i)] (J) “Program” means the College Savings Plans of Maryland.

[(j)] (K) “Qualified beneficiary” means an individual who:

(1) Is eligible to apply advance payments of qualified higher education expenses to undergraduate or graduate qualified higher education expenses at an eligible institution of higher education under the provisions of this subtitle; and

(2) Except as provided in § 18–1909(b) of this subtitle, is a resident of the State or of the District of Columbia at the time that the account holder enters into a prepaid contract.

[(k)] (L) “Qualified higher education expenses” has the meaning stated in § 529(e) of the Internal Revenue Code.

[(l)] (M) “Qualified state tuition program” has the meaning stated in § 529 of the Internal Revenue Code.

[(m)] (N) “Trust” means the Maryland Prepaid College Trust established under this subtitle.

[(n)] (O) (1) “Tuition” means the actual tuition and mandatory fees assessed to all students by an eligible institution of higher education as a condition of enrollment at the institution.

(2) "Tuition" does not include any fee that is assessed by the institution for a particular course taken, year of enrollment, academic status, course of study, residency status, or any other distinguishing factor used by the institution to determine a specific fee.

18-1902.1.

(a) There is a program entitled the College Savings Plans of Maryland.

(b) The purpose of the Program is to provide for the administration by the Board of the Maryland Prepaid College Trust, [and] the Maryland College Investment Plan, **AND THE MARYLAND BROKER-DEALER COLLEGE INVESTMENT PLAN.**

18-1904.

(a) There is a College Savings Plans of Maryland Board.

(b) The Board shall administer:

(1) The Maryland Prepaid College Trust established under this subtitle; [and]

(2) The Maryland College Investment Plan established under Subtitle 19A of this title; **AND**

(3) THE MARYLAND BROKER-DEALER COLLEGE INVESTMENT PLAN ESTABLISHED UNDER SUBTITLE 19B OF THIS TITLE.

18-1905.

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

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

(c) A member of the Board:

(1) May not receive compensation;

(2) Is entitled to reimbursement for expenses under the Standard State Travel Regulations; and

(3) Shall file a public disclosure of financial interests as required under the Maryland Public Ethics Law.

(d) (1) The Board:

(i) Shall appoint a Program executive director who is in the executive service of the State Personnel Management System; and

(ii) May employ additional staff in accordance with the budget.

(2) (i) Except for employees described in subparagraph (ii) or (iii) of this paragraph, the employees shall be skilled service employees subject to the provisions of the State Personnel and Pensions Article that govern skilled service employees.

(ii) An employee is in the professional service and subject to the provisions of the State Personnel and Pensions Article that govern professional service employees if the position:

1. Requires knowledge of an advanced type in a field of science or learning customarily acquired by a course of specialized intellectual instruction and study; and

2. Normally requires a professional license, an advanced degree, or both.

(iii) An employee is in the management service and subject to the provisions of the State Personnel and Pensions Article that govern management service employees if the position:

1. Primarily involves direct responsibility for the oversight and management of personnel and financial resources;

2. Requires the exercise of discretion and independent judgment; and

3. Is not in the executive service.

(3) The Board may retain the services of consultants, administrators, and other personnel, as necessary, to administer the Trust, [or] the Plan, **OR THE BROKER-DEALER PLAN.**

(4) The budget for the Program, the Board, and its staff is subject to review by the General Assembly for information purposes only.

(e) The Board may adopt any regulations that the Board considers necessary to carry out the provisions of this subtitle or Subtitle 19A **OR SUBTITLE 19B** of this title.

(f) In addition, the Board may:

- (1) Adopt an official seal;
- (2) Sue and be sued;
- (3) Execute contracts and other necessary instruments;
- (4) Hold, buy, and sell instruments, obligations, securities, and other investments consistent with its comprehensive investment plan;
- (5) Enter into agreements with eligible institutions of higher education and other public or private entities for the promotion, administration, or marketing of the Program, the Trust, [or] the Plan, **OR THE BROKER-DEALER PLAN**;
- (6) Invest funds not required for immediate disbursement;
- (7) Solicit and accept gifts, grants, loans, or other aid from any source or participate in any government program for purposes consistent with this subtitle and [Subtitle] **SUBTITLES 19A AND 19B** of this title;
- (8) Subject to the review of the General Assembly, impose and collect reasonable administrative fees for any transactions under the Trust, [or] the Plan, **OR THE BROKER-DEALER PLAN** or involving prepaid contracts or transactions affecting the Program, the Trust, [or] the Plan, **OR THE BROKER-DEALER PLAN**;
- (9) Procure insurance against any loss of assets of the Program, the Trust, [or] the Plan, **OR THE BROKER-DEALER PLAN**;
- (10) Endorse insurance coverage written exclusively for the purpose of protecting:
 - (i) A prepaid contract under the Trust and the account holder and the qualified beneficiary of the contract; or
 - (ii) An investment account under the Plan, **OR THE BROKER-DEALER PLAN**, and the account holder and qualified designated beneficiary of the investment account.
- (11) Designate terms under which money may be withdrawn from the Program, the Trust, [or] the Plan, **OR THE BROKER-DEALER PLAN**;
- (12) Establish additional procedural and substantive requirements for participation in and the administration or marketing of the Program, the Trust, [or] the Plan, **OR THE BROKER-DEALER PLAN**;

(13) Appear on the Board's own behalf before other boards, commissions, or other governmental agencies; and

(14) Take any other action that the Board considers appropriate to implement and administer the Program, the Trust, [or] the Plan, **OR THE BROKER-DEALER PLAN.**

18-19A-04.

(a) A Maryland resident or a nonresident of Maryland may participate in and benefit from the Plan.

(b) [Distributions from the Plan may be used only for qualified higher education expenses.

(c) Refunds shall be disbursed to the account holder of the investment account] **DISTRIBUTIONS SHALL BE REQUESTED BY THE ACCOUNT HOLDER.**

18-19A-05.

(a) (1) The debts, contracts, and obligations of the Plan are not the contracts, debts, or obligations of the State and neither the faith and credit nor taxing power of the State is pledged directly or indirectly or contingently, morally or otherwise, to the payment of the debts, contracts, and obligations.

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

(b) Neither the State nor any eligible educational institution shall be liable for any losses or shortage of funds in the event that the account holder's investment account balance is insufficient to meet the tuition requirements of an institution attended by the qualified designated beneficiary.

(c) Moneys of the Plan may not be considered moneys of the State or deposited in the State Treasury.

(d) Moneys of the Plan may not be considered moneys of or commingled with the Maryland Prepaid College Trust.

(E) MONEYS OF THE PLAN MAY NOT BE CONSIDERED MONEYS OF OR COMMINGLED WITH THE MARYLAND BROKER-DEALER COLLEGE INVESTMENT PLAN.

SUBTITLE 19B. MARYLAND BROKER-DEALER COLLEGE INVESTMENT PLAN.

18-19B-01.

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

(B) "ACCOUNT HOLDER" MEANS THE PERSON WHO ESTABLISHED AN INVESTMENT ACCOUNT ON BEHALF OF A QUALIFIED DESIGNATED BENEFICIARY.

(C) "BOARD" MEANS THE COLLEGE SAVINGS PLANS OF MARYLAND BOARD ESTABLISHED UNDER § 18-1904 OF THIS TITLE.

(D) "BROKER-DEALER PLAN" MEANS THE MARYLAND BROKER-DEALER COLLEGE INVESTMENT PLAN ESTABLISHED UNDER THIS SUBTITLE.

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

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

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

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

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

18-19B-02.

(A) THE BOARD MAY ESTABLISH A MARYLAND BROKER-DEALER COLLEGE INVESTMENT PLAN.

(B) THE PURPOSE OF THE BROKER-DEALER PLAN IS TO PROVIDE FOR A BROKER-DEALER DISTRIBUTED VEHICLE THAT WOULD ALLOW CONTRIBUTIONS TO AN INVESTMENT ACCOUNT ESTABLISHED FOR THE

PURPOSES OF MEETING THE QUALIFIED HIGHER EDUCATION EXPENSES OF THE QUALIFIED DESIGNATED BENEFICIARY OF THE ACCOUNT.

(C) (1) THE BOARD SHALL ADMINISTER, MANAGE, AND PROMOTE THE BROKER-DEALER PLAN.

(2) THE BOARD SHALL ADMINISTER THE BROKER-DEALER PLAN IN COMPLIANCE WITH INTERNAL REVENUE SERVICE STANDARDS FOR QUALIFIED STATE TUITION PROGRAMS.

(D) (1) THE BOARD SHALL ADOPT PROCEDURES RELATING TO:

(I) ENROLLMENT PROCEDURES FOR PARTICIPATION IN THE BROKER-DEALER PLAN;

(II) START-UP COSTS INCURRED BY THE STATE FOR THE DEVELOPMENT OF THE BROKER-DEALER PLAN WITH THESE COSTS TO BE REIMBURSED TO THE STATE BY THE BROKER-DEALER PLAN;

(III) EARLY WITHDRAWALS SO THAT THERE WILL BE NO MAJOR DETRIMENT TO THE REMAINING ACCOUNT HOLDERS IN THE BROKER-DEALER PLAN; AND

(IV) TRANSFER OF FUNDS FROM THE BROKER-DEALER PLAN TO OTHER QUALIFIED STATE TUITION PROGRAMS AND FROM OTHER QUALIFIED STATE TUITION PROGRAMS TO THE BROKER-DEALER PLAN IN ACCORDANCE WITH FEDERAL LAW; AND

(2) THE BOARD SHALL ADOPT ANY OTHER PROCEDURES THAT THE BOARD CONSIDERS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

(E) AT LEAST ANNUALLY, THE BOARD SHALL ISSUE TO EACH ACCOUNT HOLDER A STATEMENT THAT PROVIDES A SEPARATE ACCOUNTING FOR EACH QUALIFIED DESIGNATED BENEFICIARY PROVIDING THE FOLLOWING INFORMATION WITH RESPECT TO EACH ACCOUNT:

(1) THE BEGINNING BALANCE;

(2) CONTRIBUTIONS TO THE ACCOUNT;

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

(4) ENDING INVESTMENT ACCOUNT VALUE.

18-19B-03.

(A) (1) THE BOARD MAY ISSUE REQUESTS FOR PROPOSALS TO EVALUATE AND DETERMINE THE MEANS FOR THE ADMINISTRATION, MANAGEMENT, PROMOTION, OR MARKETING OF THE BROKER-DEALER PLAN.

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

(I) ABILITY TO DEVELOP AND ADMINISTER AN INVESTMENT PROGRAM OF A NATURE SIMILAR TO THE OBJECTIVES OF THE BROKER-DEALER PLAN;

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

(III) ABILITY TO MARKET THE BROKER-DEALER PLAN TO MARYLAND RESIDENTS AND, AT THE BOARD'S DISCRETION, NONRESIDENTS OF MARYLAND.

(B) (1) THE BOARD MAY REQUIRE AN INITIAL ENROLLMENT FEE TO BE USED FOR ADMINISTRATIVE COSTS OF THE BROKER-DEALER PLAN.

(2) THE BOARD MAY REQUIRE ADDITIONAL FEES ASSOCIATED WITH THE EXPENSES OF THE BROKER-DEALER PLAN.

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

(2) CONTRIBUTIONS TO THE BROKER-DEALER PLAN MAY BE MADE ONLY IN CASH OR CASH EQUIVALENTS.

(3) THE BROKER-DEALER PLAN SHALL INCLUDE PROVISIONS FOR AUTOMATIC CONTRIBUTIONS.

(D) (1) THE BROKER-DEALER PLAN:

(I) MAY BE ESTABLISHED AS ONE OR MORE SEPARATE PLANS AS DETERMINED BY THE BOARD;

(II) IF ESTABLISHED BY THE BOARD, SHALL BE ESTABLISHED IN THE FORM DETERMINED BY THE BOARD;

(III) SHALL BE MARKETED AND PROMOTED UNDER THE NAME OR NAMES DETERMINED BY THE BOARD; AND

(IV) MAY BE ESTABLISHED AS ONE OR MORE TRUSTS TO BE DECLARED BY THE BOARD.

(2) THE BROKER-DEALER PLAN MAY BE DIVIDED INTO MULTIPLE INVESTMENT OPTIONS.

18-19B-04.

(A) A MARYLAND RESIDENT OR, AT THE BOARD'S DISCRETION, A NONRESIDENT OF MARYLAND MAY PARTICIPATE IN AND BENEFIT FROM THE BROKER-DEALER PLAN.

(B) DISTRIBUTIONS SHALL BE REQUESTED BY THE ACCOUNT HOLDER.

18-19B-05.

(A) (1) THE DEBTS, CONTRACTS, AND OBLIGATIONS OF THE BROKER-DEALER PLAN ARE NOT THE CONTRACTS, DEBTS, OR OBLIGATIONS OF THE STATE AND NEITHER THE FAITH AND CREDIT NOR TAXING POWER OF THE STATE IS PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY, MORALLY OR OTHERWISE, TO THE PAYMENT OF THE DEBTS, CONTRACTS, AND OBLIGATIONS.

(2) THE BOARD CANNOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY OBLIGATE, MORALLY OR OTHERWISE, THE STATE TO LEVY OR PLEDGE ANY FORM OF TAXATION WHATSOEVER FOR THE DEBTS AND OBLIGATIONS OF THE BROKER-DEALER PLAN OR TO MAKE ANY APPROPRIATION FOR THE PAYMENT OF THE DEBTS AND OBLIGATIONS OF THE BROKER-DEALER PLAN.

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

(C) MONEYS OF THE BROKER-DEALER PLAN MAY NOT BE CONSIDERED MONEYS OF THE STATE OR DEPOSITED IN THE STATE TREASURY.

(D) MONEYS OF THE BROKER-DEALER PLAN MAY NOT BE CONSIDERED MONEYS OF OR COMMINGLED WITH THE MARYLAND PREPAID COLLEGE TRUST.

(E) MONEYS OF THE BROKER-DEALER PLAN MAY NOT BE CONSIDERED MONEYS OF OR COMMINGLED WITH THE MARYLAND COLLEGE INVESTMENT PLAN.

18-19B-06.

(A) THE BOARD, THE BROKER-DEALER PLAN, AND THE INVESTMENT ACCOUNTS ISSUED UNDER THIS SUBTITLE ARE NOT SUBJECT TO THE PROVISIONS OF THE INSURANCE ARTICLE.

(B) THE ASSETS AND INCOME OF THE MARYLAND BROKER-DEALER COLLEGE INVESTMENT PLAN ARE EXEMPT FROM STATE AND LOCAL TAXATION.

18-19B-07.

(A) IN THIS SECTION, "PERSON" DOES NOT INCLUDE THE STATE.

(B) A PERSON MAY NOT ATTACH, EXECUTE, GARNISH, OR OTHERWISE SEIZE ANY CURRENT OR FUTURE BENEFIT UNDER AN INVESTMENT ACCOUNT OR ANY ASSET OF THE BROKER-DEALER PLAN.

18-19B-08.

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

(2) THE BOARD SHALL OBTAIN AN ANNUAL AUDIT REPORT FROM SERVICE PROVIDER(S) WITHIN SIX MONTHS OF THE END OF SUCH SERVICE PROVIDER'S REPORTING PERIOD.

Article - Tax - General

10-205.

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

(h) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Account holder” means an account holder as defined in § 18-1901, ~~§ 18-19A-01, OR § 18-19B-01~~ of the Education Article ~~or account holder as defined in §§ 18-19A-01 AND 18-19B-01 of the Education Article.~~

(iii) “Qualified designated beneficiary” ~~has the meaning stated in §§ 18-19A-01 AND 18-19B-01~~ **MEANS A QUALIFIED DESIGNATED BENEFICIARY AS DEFINED IN § 18-19A-01 OR § 18-19B-01** of the Education Article.

(iv) “Qualified beneficiary” has the meaning stated in § 18-1901 of the Education Article.

(v) “Qualified higher education expenses” has the meaning stated in § 529 of the Internal Revenue Code.

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

(i) any refund received in the taxable year by an account holder under a prepaid contract in accordance with the Maryland Prepaid College Trust [or under an investment account in accordance with the Maryland College Investment Plan]; or

(ii) any distribution received in the taxable year by an account holder under a prepaid contract in accordance with the Maryland Prepaid College Trust or under an investment account in accordance with the Maryland College Investment Plan **OR THE MARYLAND BROKER-DEALER COLLEGE INVESTMENT PLAN** that is not used on behalf of the qualified beneficiary or qualified designated beneficiary for qualified higher education expenses.

(3) The amount of the addition required under this subsection shall be reduced by any amount included in the individual’s federal adjusted gross income as a result of the refund **OR DISTRIBUTION**.

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

(i) under § 10-208(n) of this subtitle for the taxable year and all prior taxable years for the account holder’s payments to the prepaid contract under which the refund or distribution is received; or

(ii) under § 10-208(o) of this subtitle for the taxable year and all prior taxable years for contributions made by an account holder to an investment account under which the [refund or] distribution is received.

10-207.

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

(s) (1) (i) In this subsection the following words have the meanings indicated.

(ii) “Qualified beneficiary” has the meaning stated in § 18-1901 of the Education Article.

(iii) “Qualified designated beneficiary” ~~has the meaning stated in §§ 18-19A-01 AND 18-19B-01~~ **MEANS A QUALIFIED DESIGNATED BENEFICIARY AS DEFINED IN § 18-19A-01 OR § 18-19B-01** of the Education Article.

(iv) “Qualified higher education expenses” has the meaning stated in § 529 of the Internal Revenue Code.

(2) Except as provided in paragraph (3) of this subsection, the subtraction under subsection (a) of this section includes any amount included in federal adjusted gross income as a result of a distribution to:

(i) a qualified beneficiary pursuant to a prepaid contract under the Maryland Prepaid College Trust; [or]

(ii) a qualified designated beneficiary from an investment account under the Maryland College Investment Plan; **OR**

(III) A QUALIFIED DESIGNATED BENEFICIARY FROM AN INVESTMENT ACCOUNT UNDER THE MARYLAND BROKER-DEALER COLLEGE INVESTMENT PLAN.

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

(i) a refund under the Maryland Prepaid College Trust [or the Maryland College Investment Plan]; or

(ii) a distribution that is not used by the qualified beneficiary or qualified designated beneficiary for qualified higher education expenses.

10-208.

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

(o) (1) (I) ~~In this subsection, “account holder”, “investment account”, “qualified designated beneficiary”, and “qualified higher education expenses” have the meanings stated in §§ 18-19A-01 AND 18-19B-01 of the Education Article.~~

~~(H) FOR PURPOSES OF THIS SUBSECTION, AN INVESTMENT ACCOUNT MAY INCLUDE MORE THAN ONE INVESTMENT OPTION. IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

(II) “ACCOUNT HOLDER” MEANS AN ACCOUNT HOLDER AS DEFINED IN § 18-19A-01 OR § 18-19B-01 OF THE EDUCATION ARTICLE.

(III) “INVESTMENT ACCOUNT” MEANS AN INVESTMENT ACCOUNT AS DEFINED IN § 18-19A-01 OR § 18-19B-01 OF THE EDUCATION ARTICLE.

(IV) “QUALIFIED DESIGNATED BENEFICIARY” MEANS A QUALIFIED DESIGNATED BENEFICIARY AS DEFINED IN § 18-19A-01 OR § 18-19B-01 OF THE EDUCATION ARTICLE.

(2) ~~(F) The~~ SUBJECT TO THE LIMITATION UNDER PARAGRAPH (3) OF THIS SUBSECTION, THE subtraction under subsection (a) of this section includes the amount contributed by an account holder during the taxable year to an investment account.

~~(H) REGARDLESS OF THE NUMBER OF INVESTMENT OPTIONS INCLUDED IN AN INVESTMENT ACCOUNT, ALL CONTRIBUTIONS BY AN ACCOUNT HOLDER ON BEHALF OF THE SAME QUALIFIED DESIGNATED BENEFICIARY SHALL BE CONSIDERED CONTRIBUTIONS TO ONE INVESTMENT ACCOUNT.~~

(3) (I) Subject to paragraph (4) of this subsection, for each investment account ACCOUNT HOLDER FOR ALL INVESTMENT ACCOUNTS MAINTAINED IN BOTH THE MARYLAND COLLEGE INVESTMENT PLAN AND THE MARYLAND BROKER-DEALER COLLEGE INVESTMENT PLAN FOR THE SAME QUALIFIED DESIGNATED BENEFICIARY, the subtraction under paragraph (2) of this subsection may not exceed \$2,500 for any taxable year PER QUALIFIED DESIGNATED BENEFICIARY.

(ii) FOR PURPOSES OF THE LIMITATION UNDER THIS PARAGRAPH, EACH SPOUSE ON A JOINT RETURN SHALL BE TREATED SEPARATELY.

(4) ~~The~~ **SUBJECT TO THE \$2,500 ANNUAL LIMITATION FOR EACH ACCOUNT HOLDER FOR EACH QUALIFIED DESIGNATED BENEFICIARY, THE** amount disallowed as a subtraction under this subsection for any taxable year as a result of the limitation under paragraph (3) of this subsection ~~shall be treated as having been contributed in the next 10 succeeding taxable years and, subject to the \$2,500 annual limitation for each investment account,~~ may be carried over ~~to~~ **UNTIL USED TO THE NEXT 10** succeeding taxable years as a subtraction.

SECTION 2. AND BE IT FURTHER ENACTED, That ~~Section(s)~~ §§ 10-205(h), 10-207(s), and 10-208(o) of the Tax – General Article as enacted under Section 1 of this Act shall be applicable to all taxable years beginning after December 31, 2007.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2008.

Approved by the Governor, May 13, 2008.