
By: **Senators Miller, Kasemeyer, and Hogan**
Introduced and read first time: February 5, 1999
Assigned to: Budget and Taxation and Economic and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Higher Education Investment Program - Revisions**

3 FOR the purpose of authorizing the use of contracts made under the Maryland Higher
4 Education Investment Program at any eligible institution of higher education;
5 altering the composition of the Maryland Higher Education Investment Board;
6 altering certain requirements relating to the administration of the Program;
7 defining certain terms; providing for the application of this Act; and generally
8 relating to the Maryland Higher Education Investment Program.

9 BY repealing and reenacting, with amendments,
10 Article - Education
11 Section 18-1901
12 Annotated Code of Maryland
13 (1997 Replacement Volume and 1998 Supplement)
14 (As enacted by Chapter 110 of the Acts of the General Assembly of 1997)

15 BY repealing and reenacting, with amendments,
16 Article - Education
17 Section 18-1902 through 18-1904, 18-1909, 18-1910, and 18-1914
18 Annotated Code of Maryland
19 (1997 Replacement Volume and 1998 Supplement)

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

22 **Article - Education**

23 18-1901.

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

25 (b) "Board" means the Board of the Maryland Higher Education Investment
26 Program.

1 (c) ["Program" means the Maryland Higher Education Investment Program.]
2 "ELIGIBLE INSTITUTION" MEANS AN INSTITUTION OF HIGHER EDUCATION THAT IS
3 ELIGIBLE TO PARTICIPATE IN FEDERAL FINANCIAL AID PROGRAMS.

4 (d) "Higher education investment contract" means a contract between the
5 Board and a purchaser under the provisions of this subtitle for the advance payment
6 of undergraduate tuition at a fixed and guaranteed level by the purchaser for a
7 qualified beneficiary to attend an institution of higher education[in the State], if the
8 qualified beneficiary is admitted to the institution.

9 (e) "PROGRAM" MEANS THE MARYLAND HIGHER EDUCATION INVESTMENT
10 PROGRAM.

11 (F) "Purchaser" means an individual who:

12 (1) Makes or undertakes the obligation to make advance payments of
13 undergraduate tuition as provided under a higher education investment contract; and

14 (2) Except as provided in § 18-1909(b) of this subtitle, is a resident of
15 Maryland at the time that the purchaser enters into a higher education investment
16 contract.

17 [(f)] (G) "Qualified beneficiary" means an individual who:

18 (1) Is eligible to apply advance tuition payments to undergraduate
19 tuition at an institution of higher education [in the State] under the provisions of
20 this subtitle; and

21 (2) Except as provided in § 18-1909(b) of this subtitle, is a resident of the
22 State at the time that the purchaser enters into a higher education investment
23 contract.

24 [(g)] (H) "Tuition" means the charges imposed by an institution of higher
25 education [in the State] for enrollment at the institution and includes registration
26 and all fees required as a condition of enrollment.

27 18-1902.

28 It is the intent of the General Assembly to enhance the accessibility and
29 affordability of higher education for all citizens of the State by establishing a method
30 to provide for the prepayment of tuition at ELIGIBLE institutions of higher education
31 [in the State].

32 18-1903.

33 (a) There is a Maryland Higher Education Investment Program.

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

35 (1) A means for payment of the cost of tuition in advance of enrollment at
36 [any] AN ELIGIBLE institution of higher education [in the State]; and

1 (2) An assurance to a beneficiary who enrolls at an ELIGIBLE institution
 2 of higher education [in the State] that the Board shall make every effort to invest the
 3 advance payments so that the higher education investment 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 contracts made
 8 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) (1) The debts, contracts, and obligations of the Program are not the
 20 contracts, debts, or obligations of the State and neither the faith and credit nor taxing
 21 power of the State is pledged directly or indirectly or contingently, morally or
 22 otherwise, to the payment of the debts, contracts, and obligations.

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

27 18-1904.

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

29 (b) The Board consists of the following [seven] NINE members:

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

31 (2) THE STATE SUPERINTENDENT OF SCHOOLS;

32 [(2)] (3) The State Treasurer;

33 [(3)] (4) The State Comptroller; and

1 [(4) Four] (5) FIVE members of the public who shall be appointed by the
2 Governor and shall have significant experience in finance, accounting, investment
3 management, or other areas that can be of assistance to the Board.

4 (c) Before taking office, each appointee to the Board shall take the oath
5 required by Article I, § 9 of the Maryland Constitution.

6 (d) (1) Except for the terms of the initial members of the Board, the term of
7 a public member of the Board is 4 years.

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

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

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

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

15 (e) The Governor may remove a public member for incompetence or
16 misconduct.

17 18-1909.

18 (a) The Board shall establish a program of higher education investment
19 contracts to[be known as] PROVIDE FOR THE ADVANCE PAYMENT OF TUITION AND
20 MANDATORY FEES AT:

21 (1) [The] A COMMUNITY college [plan];

22 (2) [The university plan; and] A 4-YEAR COLLEGE;

23 [(3) The two plus two plan.]

24 (3) A UNIVERSITY; OR

25 (4) ANY COMBINATION OF A COMMUNITY COLLEGE, COLLEGE, OR
26 UNIVERSITY.

27 (b) (1) For the purpose of entering into a higher education investment
28 contract, either the purchaser or the qualified beneficiary must be a resident of
29 Maryland at the time that the purchaser enters into the contract.

30 (2) For the purposes of determining residency for the purchase of a
31 higher education investment contract, "resident" has the meaning stated in §
32 10-101(h) of the Tax - General Article.

33 (c) The cost of a higher education investment contract shall be based on:

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

3 (2) The number of years expected to elapse between the purchase of a
4 higher education investment contract and the use of the benefits of the contract; and

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

7 (d) Each higher education investment contract made under the provisions of
8 this subtitle shall include the following provisions:

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

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

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

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

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

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

19 (7) Terms and conditions for a substitution for the qualified beneficiary
20 originally named;

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

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

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

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

28 (12) The following notice shall be printed on each contract in at least
29 10-point type: This contract is not an obligation of the State and neither the faith and
30 credit nor taxing power of the State is pledged directly or indirectly or contingently,
31 morally or otherwise, to the payment of this contract. The Board cannot directly or
32 indirectly or contingently obligate, morally or otherwise, the State to levy or pledge
33 any form of taxation whatsoever or to make any appropriation for the payment of this
34 contract; and

1 (13) Any other terms and conditions that the Board considers necessary or
2 appropriate.

3 (e) The Board shall allow the conversion of an advance payment contract plan
4 from [a community college plan to a two plus two plan or a university plan; from a
5 university plan to a community college plan or a two plus two plan; or from a two plus
6 two plan to a community college plan or a university plan] AN EXISTING
7 PURCHASER'S PLAN TO ANY AVAILABLE PLAN.

8 18-1910.

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

10 (2) Unless authorized under regulations of the Board or under
11 subsection (b) of this section, a refund may not exceed the amount paid into the
12 Program by the purchaser.

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

16 (1) Is awarded a scholarship OR TUITION REMISSION that covers
17 benefits provided under the higher education investment contract; OR

18 (2) Dies or suffers from a disability which prevents the beneficiary from
19 attending an institution of higher education within the time allowed by this subtitle[;
20 or

21 (3) Attends an institution of higher education not in the State of
22 Maryland].

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

25 (i) The beneficiary does not attend an institution of higher
26 education;

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

29 (iii) The contract is canceled by the purchaser.

30 (2) The time that a qualified beneficiary spends in active duty as a
31 member of the United States armed forces shall be added to the time period allowed
32 to exercise the benefits under a higher education investment contract before a
33 termination under paragraph (1) of this subsection.

1 18-1914.

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

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

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
10 construed retroactively and shall be applied to and interpreted to affect all higher
11 education contracts purchased prior to the effective date of this Act.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 1999.