

HOUSE BILL 11

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2000 Regular Session  
0lr0821  
CF 0lr1325

(PRE-FILED)

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By: **Delegates Shriver and Taylor, the Speaker (Administration), and  
Delegates Kopp, Dewberry, Hurson, Arnick, Busch, Guns, Harrison,  
Hixson, Howard, Menes, Montague, Owings, Rosenberg, Vallario, and  
Wood**

Requested: November 15, 1999

Introduced and read first time: January 12, 2000

Assigned to: Appropriations

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A BILL ENTITLED

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 programs to other state  
8 tuition programs under certain circumstances; requiring the Governor under  
9 certain circumstances to include a certain amount for the Maryland Prepaid  
10 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  
28 only for certain qualified higher education expenses; requiring the Board to  
29 issue certain statements to participants at least annually; providing that the  
30 assets and income of the Plan are exempt from State and local taxation;  
31 requiring the Board to report to the Governor and General Assembly annually

1 concerning the audit and certain matters concerning the Plan; providing a  
2 subtraction modification under the Maryland income tax for certain  
3 contributions to an account under the Plan, subject to a certain limitation;  
4 allowing certain amounts disallowed under the subtraction modification as a  
5 result of a certain limitation to be carried over and subtracted for succeeding  
6 taxable years; providing an addition modification for certain distributions made  
7 under the Plan, subject to a certain limitation; providing for the construction  
8 and application of this Act; defining certain terms; and generally relating to the  
9 Maryland Higher Education Investment Board, the Maryland Prepaid College  
10 Trust, and the Maryland College Investment Plan.

11 BY repealing and reenacting, with amendments,  
12 Article - Education  
13 Section 18-1901, 18-1903 through 18-1907, 18-1909 through 18-1911, and  
14 18-1913 through 18-1916 to be under the amended subtitle "Subtitle 19.  
15 Maryland Prepaid College Trust"  
16 Annotated Code of Maryland  
17 (1999 Replacement Volume)

18 BY adding to  
19 Article - Education  
20 Section 18-1906.1; and 18-19A-01 through 18-19A-07 to be under the new  
21 subtitle "Subtitle 19A. Maryland College Investment Plan"  
22 Annotated Code of Maryland  
23 (1999 Replacement Volume)

24 BY repealing and reenacting, without amendments,  
25 Article - Tax - General  
26 Section 10-205(a), 10-207(a), and 10-208(a)  
27 Annotated Code of Maryland  
28 (1997 Replacement Volume and 1999 Supplement)

29 BY repealing and reenacting, with amendments,  
30 Article - Tax - General  
31 Section 10-205(h), 10-207(s), and 10-208(n)  
32 Annotated Code of Maryland  
33 (1997 Replacement Volume and 1999 Supplement)

34 BY adding to  
35 Article - Tax - General  
36 Section 10-205(i) and 10-208(o)  
37 Annotated Code of Maryland  
38 (1997 Replacement Volume and 1999 Supplement)

39 BY repealing and reenacting, with amendments,

1 Chapter 110 of the Acts of the General Assembly of 1997  
2 Section 5

3 BY repealing and reenacting, with amendments,  
4 Chapter 111 of the Acts of the General Assembly of 1997  
5 Section 5

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

8 **Article - Education**

9 Subtitle 19. Maryland [Higher Education Investment Program] PREPAID COLLEGE  
10 TRUST.

11 18-1901.

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

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

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

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

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

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

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

27 (F) "MARKET VALUE OF PROGRAM ASSETS" MEANS THE FAIR MARKET VALUE  
28 OF THE ASSETS OF THE PROGRAM PLUS THE CASH AND CASH EQUIVALENTS HELD BY  
29 THE PROGRAM.

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

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

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

1 (1) Makes or undertakes the obligation to make advance payments of  
2 undergraduate or graduate tuition as provided under a [higher education  
3 investment] PREPAID contract; and

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

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

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

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

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

16 (L) "QUALIFIED STATE TUITION PROGRAM" HAS THE MEANING STATED IN §  
17 529 OF THE INTERNAL REVENUE CODE.

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

21 18-1903.

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

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

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

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

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

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

35 (2) Bequests, endowments, or funds from any other available private  
36 source;

1 (3) Interest and income earned from the investments of the Program;  
2 and

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

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

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

9 (F) MONEYS OF THE PROGRAM MAY NOT BE CONSIDERED MONEYS OF THE  
10 MARYLAND COLLEGE INVESTMENT PLAN AND MAY NOT BE COMMINGLED WITH THE  
11 PLAN.

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

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

20 (H) NEITHER THE STATE NOR ANY ELIGIBLE EDUCATIONAL INSTITUTION  
21 SHALL BE LIABLE FOR ANY LOSSES OR SHORTAGE OF FUNDS IN THE EVENT THAT  
22 THE MARYLAND PREPAID COLLEGE TRUST IS INSUFFICIENT TO MEET THE TUITION  
23 REQUIREMENTS OF AN INSTITUTION ATTENDED BY THE DESIGNATED BENEFICIARY.

24 18-1904.

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

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

27 (1) THE MARYLAND PREPAID COLLEGE TRUST ESTABLISHED UNDER  
28 THIS SUBTITLE; AND

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

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

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

33 (2) The State Superintendent of Schools;

34 (3) The State Treasurer;

1 (4) The State Comptroller; and

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

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

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

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

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

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

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

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

18 18-1905.

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

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

22 (c) A member of the Board:

23 (1) May not receive compensation;

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

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

28 (d) (1) The Board:

29 (i) Shall appoint an executive director who is in the executive  
30 service of the State Personnel Management System; and

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

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

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

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

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

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

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

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

20    3.       Is not in the executive service.

21                   (3)    The Board may retain the services of consultants, administrators,  
22 and other personnel, as necessary, to administer the Program OR THE PLAN.

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

25    (e)    The Board may adopt any regulations that the Board considers necessary  
26 to carry out the provisions of this subtitle OR SUBTITLE 19A OF THIS TITLE.

27    (f)    In addition, the Board may:

28                   (1)    Adopt an official seal;

29                   (2)    Sue and be sued;

30                   (3)    Execute contracts and other necessary instruments;

31                   (4)    Hold, buy, and sell instruments, obligations, securities, and other  
32 investments consistent with its comprehensive investment plan;

33                   (5)    Enter into agreements with eligible institutions of higher education  
34 and other public or private entities for the promotion, administration, or marketing of  
35 the Program OR THE PLAN;

- 1 (6) Invest funds not required for immediate disbursement;
- 2 (7) Solicit and accept gifts, grants, loans, or other aid from any source or  
3 participate in any government program for purposes consistent with this subtitle AND  
4 SUBTITLE 19A OF THIS TITLE;
- 5 (8) Subject to the review of the General Assembly, impose and collect  
6 reasonable administrative fees for any transactions involving [higher education  
7 investment] PREPAID contracts or transactions affecting the Program OR THE PLAN;
- 8 (9) Procure insurance against any loss of assets of the Program OR THE  
9 PLAN;
- 10 (10) Endorse insurance coverage written exclusively for the purpose of  
11 protecting a [higher education investment] PREPAID contract and the purchaser and  
12 qualified beneficiary of the contract;
- 13 (11) Designate terms under which money may be withdrawn from the  
14 Program OR THE PLAN;
- 15 (12) Establish additional procedural and substantive requirements for  
16 participation in and the administration or marketing of the Program OR THE PLAN;
- 17 (13) Appear on the Board's own behalf before other boards, commissions,  
18 or other governmental agencies; and
- 19 (14) Take any other action that the Board considers appropriate to  
20 implement and administer the Program OR THE PLAN.

21 18-1906.

- 22 (a) The Board shall adopt a comprehensive investment plan for the  
23 administration of the Program.
- 24 (b) The plan shall specify the investment policies used by the Board in the  
25 administration of the Program.
- 26 (c) Assets of the Program shall be invested in accordance with the  
27 comprehensive investment plan.
- 28 (d) The comprehensive investment plan must indicate the percentage of assets  
29 that shall be held in each class of investment, the amount of funds held in any cash  
30 pool, the amount of funds held in fixed assets investments, the amount of funds held  
31 in equity investments, and the percentage and dollar value of assets placed with  
32 outside managers.
- 33 (e) (1) Notwithstanding any law restricting the deposit or investment of  
34 State money, the Board may place assets of the Program in savings accounts or may  
35 use the assets to purchase fixed or variable life insurance or annuity contracts,

1 securities, evidence of indebtedness, or other investment products pursuant to the  
2 comprehensive investment plan.

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

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

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

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

16       (i)       After each annual review of the comprehensive investment plan for  
17 actuarial soundness, the Board may adjust the terms of subsequent higher education  
18 investment contracts to ensure continued actuarial soundness or, if necessary, may  
19 adjust the terms of current higher education investment contracts.]

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

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

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

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

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

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

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

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

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

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

8 (2) THE BOARD MAY NOT REBATE ANY AMOUNT TO OWNERS IF, WITHIN  
9 THE 5 YEARS IMMEDIATELY PRECEDING THE PROPOSED REBATE:

10 (I) THE BOARD HAS REQUESTED AN APPROPRIATION UNDER §  
11 18-1906.1 OF THIS SUBTITLE; OR

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

14 18-1906.1.

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

20 (B) THE APPROPRIATION TO BE INCLUDED IN THE BUDGET UNDER  
21 SUBSECTION (A) OF THIS SECTION SHALL EQUAL THE DIFFERENCE BETWEEN THE  
22 CURRENT PREPAID CONTRACT OBLIGATIONS AND THE FAIR MARKET VALUE OF  
23 PROGRAM ASSETS.

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

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

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

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

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

35 (3) SUBJECT TO THE RIGHTS OF THE PROGRAM'S CONTRACT HOLDERS,  
36 AMOUNTS APPROPRIATED UNDER THIS SECTION SHALL BE REPAYED TO THE STATE  
37 WITHOUT INTEREST IN EQUAL AMOUNTS IN EACH OF THE NEXT 2 FISCAL YEARS  
38 SUCCEEDING THE ONE FOR WHICH THE APPROPRIATION WAS MADE.

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

6 18-1907.

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

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

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

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

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

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

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

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

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

23 (4) By diversifying the investments of the Program so as to minimize the  
24 risk of large losses, unless under the circumstances it is clearly prudent not to do so;

25 (5) In accordance with the laws governing the Program; and

26 (6) In accordance with the documents and instruments governing the  
27 Program to the extent that the documents and instruments are consistent with this  
28 subtitle.

29 (c) In exercising authority, control, or discretion with respect to the Program,  
30 a fiduciary may not:

31 (1) Use the assets of the Program for the fiduciary's own interest or  
32 account;

33 (2) Act in a transaction involving the Program on behalf of a person, or  
34 represent a person, if the interests of the person are adverse to the interests of the  
35 Program or the interests of participants;

1 (3) Receive any consideration for the fiduciary's own account from a  
2 person dealing with the Program in connection with a transaction involving the  
3 assets of the Program; or

4 (4) Become an endorser or surety or, in any manner, an obligor, for  
5 money lent to or borrowed from the Board.

6 18-1909.

7 (a) The Board shall establish a program of [higher education investment]  
8 PREPAID contracts to provide for the advance payment of tuition and mandatory fees  
9 at:

10 (1) A community college;

11 (2) A 4-year college;

12 (3) A university; or

13 (4) Any combination of a community college, college, or university.

14 (b) (1) For the purpose of entering into a [higher education investment]  
15 PREPAID contract, either the purchaser or the qualified beneficiary must be a  
16 resident of Maryland or of the District of Columbia at the time that the purchaser  
17 enters into the PREPAID contract.

18 (2) For the purposes of determining residency for the purchase of a  
19 [higher education investment] PREPAID contract:

20 (i) For residency in Maryland, "resident" has the meaning stated  
21 in § 10-101(h) of the Tax - General Article; and

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

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

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

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

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

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

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

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

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

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

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

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

11 (7) Terms and conditions for a substitution for the qualified beneficiary  
12 originally named;

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

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

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

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

20 [(12) The following notice shall be printed on each contract in at least  
21 10-point type: This contract is not an obligation of the State and neither the faith and  
22 credit nor taxing power of the State is pledged directly or indirectly or contingently,  
23 morally or otherwise, to the payment of this contract. The Board cannot directly or  
24 indirectly or contingently obligate, morally or otherwise, the State to levy or pledge  
25 any form of taxation whatsoever or to make any appropriation for the payment of this  
26 contract;] and

27 [(13)] (12) Any other terms and conditions that the Board considers  
28 necessary or appropriate.

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

33 (F) THE BOARD SHALL ALLOW EXCESS PREPAID CONTRACT BENEFITS DUE TO  
34 RECEIPT OF SCHOLARSHIP, TUITION REMISSION, OR EARLY GRADUATION OF  
35 COLLEGE TO BE USED TOWARD THE PAYMENT OF OTHER QUALIFIED HIGHER

1 EDUCATION EXPENSES, AS SPECIFIED BY THE BOARD, AT AN ELIGIBLE INSTITUTION  
2 OF HIGHER EDUCATION.

3 (G) THE BOARD SHALL ALLOW THE TRANSFER OF FUNDS FROM THE  
4 PROGRAM TO ANY OTHER QUALIFIED STATE TUITION PROGRAM OR FROM ANY  
5 OTHER QUALIFIED STATE TUITION PROGRAM TO THE PROGRAM, IN ACCORDANCE  
6 WITH FEDERAL LAW.

7 (H) THE BOARD SHALL SET PROCEDURES TO ENSURE THAT CONTRIBUTIONS  
8 TO THE PROGRAM PLUS CONTRIBUTIONS OR PAYMENTS TO OTHER QUALIFIED  
9 STATE TUITION PROGRAMS DO NOT EXCEED A TOTAL MAXIMUM AMOUNT  
10 DETERMINED BY § 529 OF THE INTERNAL REVENUE CODE FOR CONTRIBUTIONS TO  
11 MULTIPLE QUALIFIED STATE TUITION PROGRAMS.

12 18-1910.

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

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

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

21 (1) Is awarded a scholarship or tuition remission that covers benefits  
22 provided under the [higher education investment] PREPAID contract; or

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

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

27 (i) The beneficiary does not attend an institution of higher  
28 education;

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

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

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

1 18-1911.

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

4 18-1913.

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

8 18-1914.

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

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

16 18-1915.

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

20 18-1916.

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

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

25 [(2)] (3) The Board shall pay for the audit REQUIRED UNDER  
26 PARAGRAPH (2) OF THIS SUBSECTION.

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

30 (i) The [legislative] audit OF THE OUTSIDE INDEPENDENT  
31 AUDITOR;

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

33 1. The annual review of the comprehensive investment plan  
34 which shall include:

- 1                           A.       The status of the investment program, including  
2 investment income matched to projected enrollment costs under the existing  
3 [contract] PREPAID CONTRACTS;
- 4                           B.       The assets held in each class of investment, the amount of  
5 funds held in any cash pool, the amount of funds held in fixed assets investments, and  
6 the amount of funds held in equity investments;
- 7                           C.       The percentage and dollar value of assets placed with  
8 outside managers;
- 9                           D.       The income produced by each class of investment; and
- 10                          E.       The income produced by each investment manager; and
- 11                          2.       A detailed account of the operating and administrative  
12 budget for the Program, which shall include a complete list of revenue sources and  
13 expenditures detailing the line item expenditures for:
- 14                           A.       Salaries, wages, and fringe benefits;
- 15                           B.       Technical and special fees;
- 16                           C.       Communication;
- 17                           D.       Travel;
- 18                           E.       Contractual services;
- 19                           F.       Supplies and materials;
- 20                           G.       Equipment;
- 21                           H.       Fixed charges; and
- 22                           I.       Other expenses.
- 23                          (iii)     The number of [higher education investment] PREPAID  
24 contracts entered into during the previous fiscal year;
- 25                          (iv)     Efforts by the Board in marketing the Program of [higher  
26 education investment] PREPAID contracts; and
- 27                          (v)     Any recommendations of the Board concerning the operation of  
28 the Program.
- 29                          (2)     The Board shall make available to each purchaser a copy of a  
30 summary of the report and the option to purchase the full report at a nominal charge.

## SUBTITLE 19A. MARYLAND COLLEGE INVESTMENT PLAN.

18-19A-01.

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

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

(C) "CONTRIBUTOR" MEANS THE PERSON WHO ESTABLISHES A COLLEGE INVESTMENT PLAN ACCOUNT ON BEHALF OF A DESIGNATED BENEFICIARY.

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

(E) "INVESTMENT ACCOUNT" MEANS AN ACCOUNT ESTABLISHED BY A CONTRIBUTOR 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.

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

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

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

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

18-19A-02.

(A) THERE IS A MARYLAND COLLEGE INVESTMENT PLAN.

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

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

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

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

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

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

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

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

9 (4) TRANSFER OF FUNDS FROM THE PLAN TO OTHER QUALIFIED STATE  
10 TUITION PROGRAMS AND FROM OTHER QUALIFIED STATE TUITION PROGRAMS TO  
11 THE PLAN IN ACCORDANCE WITH FEDERAL LAW.

12 (F) AT LEAST ANNUALLY, THE BOARD SHALL ISSUE TO EACH CONTRIBUTOR  
13 TO AN INVESTMENT ACCOUNT A STATEMENT THAT PROVIDES A SEPARATE  
14 ACCOUNTING FOR EACH DESIGNATED BENEFICIARY PROVIDING THE FOLLOWING  
15 INFORMATION WITH RESPECT TO EACH ACCOUNT:

16 (1) THE BEGINNING BALANCE;

17 (2) CONTRIBUTIONS TO THE ACCOUNT;

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

20 (4) ENDING INVESTMENT ACCOUNT VALUE.

21 18-19A-03.

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

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

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

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

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

32 (IV) ABILITY TO MARKET THE PLAN TO NONRESIDENTS OF  
33 MARYLAND; AND

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

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

7 (2) THE BOARD MAY REQUIRE ADDITIONAL FEES ASSOCIATED WITH THE  
8 EXPENSES OF THE PLAN.

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

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

15 (3) THE PLAN SHALL INCLUDE PROVISIONS FOR AUTOMATIC  
16 CONTRIBUTIONS.

17 (D) THE BOARD SHALL SET PROCEDURES TO ENSURE THAT CONTRIBUTIONS  
18 TO THE PLAN PLUS CONTRIBUTIONS OR PAYMENTS TO OTHER QUALIFIED STATE  
19 TUITION PROGRAMS DO NOT EXCEED A TOTAL MAXIMUM AMOUNT DETERMINED  
20 UNDER § 529 OF THE INTERNAL REVENUE CODE FOR CONTRIBUTIONS TO MULTIPLE  
21 QUALIFIED STATE TUITION PROGRAMS.

22 (E) (1) THE MARYLAND COLLEGE INVESTMENT PLAN:

23 (I) SHALL BE ESTABLISHED IN THE FORM DETERMINED BY THE  
24 BOARD; AND

25 (II) MAY BE ESTABLISHED AS A TRUST TO BE DECLARED BY THE  
26 BOARD.

27 (2) THE PLAN MAY BE DIVIDED INTO MULTIPLE INVESTMENT  
28 PORTFOLIOS.

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

35 (I) DISTINCT RECORDS ARE MAINTAINED FOR EACH PORTFOLIO;  
36 AND

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

3 18-19A-04.

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

6 (B) DISTRIBUTIONS FROM THE PLAN MAY BE USED ONLY FOR QUALIFIED  
7 EDUCATIONAL EXPENSES.

8 (C) REFUNDS SHALL BE DISBURSED TO THE CONTRIBUTOR OF THE  
9 INVESTMENT ACCOUNT.

10 18-19A-05.

11 (A) (1) THE DEBTS, CONTRACTS, AND OBLIGATIONS OF THE MARYLAND  
12 COLLEGE INVESTMENT PLAN ARE NOT THE CONTRACTS, DEBTS, OR OBLIGATIONS OF  
13 THE STATE AND NEITHER THE FAITH AND CREDIT NOR TAXING POWER OF THE  
14 STATE IS PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY, MORALLY OR  
15 OTHERWISE, TO THE PAYMENT OF THE DEBTS, CONTRACTS, AND OBLIGATIONS.

16 (2) THE BOARD CANNOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY  
17 OBLIGATE, MORALLY OR OTHERWISE, THE STATE TO LEVY OR PLEDGE ANY FORM OF  
18 TAXATION WHATSOEVER FOR THE DEBTS AND OBLIGATIONS OF THE MARYLAND  
19 COLLEGE INVESTMENT PLAN OR TO MAKE ANY APPROPRIATION FOR THE PAYMENT  
20 OF THE DEBTS AND OBLIGATIONS OF THE PLAN.

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

26 (C) MONEYS OF THE PLAN MAY NOT BE CONSIDERED MONEYS OF THE  
27 MARYLAND PREPAID COLLEGE TRUST AND MAY NOT BE COMMINGLED WITH THE  
28 MARYLAND PREPAID COLLEGE TRUST.

29 18-19A-06.

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

32 18-19A-07.

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

35 (2) THE BOARD SHALL OBTAIN AN ANNUAL AUDIT REPORT FROM  
36 SERVICE PROVIDERS.

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

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

5 1. AN ANNUAL REVIEW OF THE PLAN WHICH SHALL  
6 INCLUDE:

7 A. THE STATUS OF THE INVESTMENT PROGRAM;

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

9 C. THE PERCENTAGE AND DOLLAR VALUE OF ASSETS  
10 PLACED WITH OUTSIDE MANAGERS;

11 D. THE INCOME PRODUCED BY EACH CLASS OF  
12 INVESTMENT;

13 E. THE INCOME PRODUCED BY EACH INVESTMENT  
14 MANAGER;

15 F. THE TOTAL DEPOSITS INTO THE PLAN FOR THE PAST  
16 YEAR; AND

17 G. THE TOTAL WITHDRAWALS FROM THE PLAN FOR THE  
18 PAST YEAR; AND

19 2. A DETAILED ACCOUNT OF THE OPERATING AND  
20 ADMINISTRATIVE BUDGET FOR THE PLAN, WHICH SHALL INCLUDE A COMPLETE LIST  
21 OF REVENUE SOURCES AND EXPENDITURES DETAILING THE LINE ITEM  
22 EXPENDITURES FOR:

23 A. SALARIES, WAGES, AND FRINGE BENEFITS;

24 B. TECHNICAL AND SPECIAL FEES;

25 C. COMMUNICATION;

26 D. TRAVEL;

27 E. CONTRACTUAL SERVICES;

28 F. SUPPLIES AND MATERIALS;

29 G. EQUIPMENT;

30 H. FIXED CHARGES; AND

31 I. OTHER EXPENSES;

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

3 (III) EFFORTS IN MARKETING THE PLAN; AND

4 (IV) ANY RECOMMENDATIONS OF THE BOARD CONCERNING THE  
5 OPERATION OF THE PLAN.

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

9 **Article - Tax - General**

10 10-205.

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

14 (h) (1) The addition under subsection (a) of this section includes the amount  
15 of any refund received by an individual in the taxable year under a [higher education  
16 investment] PREPAID contract in accordance with the Maryland [Higher Education  
17 Investment Program] PREPAID COLLEGE TRUST that is not applied on behalf of the  
18 beneficiary for charges imposed by an institution of higher education for enrollment  
19 at the institution, including tuition and registration and other fees required as a  
20 condition of enrollment.

21 (2) The amount of the addition required under this subsection shall be  
22 reduced by any amount included in the individual's federal adjusted gross income as  
23 a result of the refund.

24 (3) The cumulative amount of the addition under this subsection for the  
25 taxable year and all prior taxable years may not exceed the cumulative amount  
26 allowed as a subtraction under § 10-208(n) of this subtitle for the taxable year and all  
27 prior taxable years for the individual's payments to the [higher education  
28 investment] PREPAID contract under which the refund is received.

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

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

1 (3) THE AMOUNT OF THE ADDITION REQUIRED UNDER THIS  
2 SUBSECTION SHALL BE REDUCED BY ANY AMOUNT INCLUDED IN THE  
3 CONTRIBUTOR'S FEDERAL ADJUSTED GROSS INCOME AS A RESULT OF THE  
4 DISTRIBUTION.

5 (4) THE CUMULATIVE AMOUNT OF THE ADDITION UNDER THIS  
6 SUBSECTION FOR THE TAXABLE YEAR AND ALL PRIOR TAXABLE YEARS MAY NOT  
7 EXCEED THE CUMULATIVE AMOUNT ALLOWED AS A SUBTRACTION UNDER §  
8 10-208(O) OF THIS SUBTITLE FOR THE TAXABLE YEAR AND ALL PRIOR TAXABLE  
9 YEARS FOR THE CONTRIBUTOR'S CONTRIBUTIONS TO THE INVESTMENT ACCOUNT  
10 FROM WHICH THE DISTRIBUTION IS RECEIVED.

11 **Article - Tax - General**

12 10-207.

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

16 (s) (1) In this subsection, "tuition" means the charges imposed by an  
17 institution of higher education for enrollment at the institution and includes  
18 registration and all fees required as a condition of enrollment.

19 (2) The subtraction under subsection (a) of this section includes any  
20 amount included in federal adjusted gross income as a result of a benefit furnished to  
21 a beneficiary pursuant to a [higher education investment] PREPAID contract under  
22 the Maryland [Higher Education Investment Program] PREPAID COLLEGE TRUST.

23 (3) The subtraction under paragraph (2) of this subsection does not apply  
24 to a refund under the Maryland [Higher Education Investment Program] PREPAID  
25 COLLEGE TRUST unless the refund is applied on behalf of the beneficiary to the cost of  
26 tuition at an institution of higher education.

27 10-208.

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

31 (n) (1) The subtraction under subsection (a) of this section includes the  
32 amount of advance payments of undergraduate tuition made by an individual during  
33 the taxable year as provided under a [higher education investment] PREPAID  
34 contract in accordance with the Maryland [Higher Education Investment Program]  
35 PREPAID COLLEGE TRUST.

36 (2) Subject to paragraph (3) of this subsection, for each [higher  
37 education investment] PREPAID contract, the subtraction under paragraph (1) of this  
38 subsection may not exceed \$2,500 for any taxable year.

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

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

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

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

17           (4)       THE AMOUNT DISALLOWED AS A SUBTRACTION UNDER THIS  
 18 SUBSECTION FOR ANY TAXABLE YEAR AS A RESULT OF THE LIMITATION UNDER  
 19 PARAGRAPH (3) OF THIS SUBSECTION SHALL BE TREATED AS HAVING BEEN  
 20 CONTRIBUTED IN THE NEXT 10 SUCCEEDING TAXABLE YEARS AND, SUBJECT TO THE  
 21 \$2,500 ANNUAL LIMITATION FOR EACH COLLEGE SAVINGS PLAN ACCOUNT, MAY BE  
 22 CARRIED OVER TO SUCCEEDING TAXABLE YEARS AS A SUBTRACTION.

23

#### **Chapter 110 of the Acts of 1997**

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

32

#### **Chapter 111 of the Acts of 1997**

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

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

4 SECTION 3. AND BE IT FURTHER ENACTED, That §§ 10-205(i) and  
5 10-208(o) of the Tax - General Article as enacted under Section 1 of this Act shall be  
6 applicable to all taxable years beginning after December 31, 2000.

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