

HOUSE BILL 11

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2000 Regular Session
0lr0821
CF 0lr1325

(PRE-FILED)

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~~ Wood, W. Baker, Bobo, Bozman, Brown, Cane, Clagett, Cole, Conroy, Conway, D'Amato, DeCarlo, Doory, Dypski, Finifter, Franchot, Giannetti, Goldwater, Griffith, Hammen, Hecht, Heller, Hubers, James, A. Jones, V. Jones, Klausmeier, Krysiak, Love, Malone, Mandel, Marriott, McHale, Mitchell, Moe, Morhaim, Nathan-Pulliam, Patterson, Pitkin, Proctor, Rosso, Rudolph, Sophocleus, Turner, Valderrama, Weir, and Zirkin**

Requested: November 15, 1999
Introduced and read first time: January 12, 2000
Assigned to: Appropriations

Committee Report: Favorable with amendments
House action: Adopted with floor amendments
Read second time: March 25, 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;

1 establishing the Maryland College Investment Plan as a means to allow
 2 individuals to make contributions to certain accounts for the purposes of
 3 meeting certain higher education expenses; requiring the Maryland Higher
 4 Education Investment Board to oversee the administration of the Plan;
 5 providing that neither the faith and credit nor the taxing power of the State is
 6 pledged to the payment of debts, prepaid contracts, and obligations of the Plan;
 7 providing for the administration of the Plan; requiring the Board to maintain
 8 the Plan in compliance with Internal Revenue Service standards for qualified
 9 state tuition programs; providing that distributions from the Plan may be used
 10 only for certain qualified higher education expenses; requiring the Board to
 11 issue certain statements to participants at least annually; providing that the
 12 assets and income of the Plan are exempt from State and local taxation;
 13 requiring the Board to report to the Governor and General Assembly annually
 14 concerning the audit and certain matters concerning the Plan; ~~providing~~
 15 allowing a subtraction modification under the Maryland income tax for certain
 16 contributions to an account under the Plan, subject to a certain limitation;
 17 allowing certain amounts disallowed under the subtraction modification as a
 18 result of a certain limitation to be carried over and subtracted for succeeding
 19 taxable years; ~~providing~~ requiring an addition modification for certain
 20 distributions made under the Plan, subject to a certain limitation ~~certain~~
 21 prepaid contracts and investment accounts; requiring an addition modification
 22 for certain refunds under certain prepaid contracts and investment accounts;
 23 allowing a subtraction modification for certain distributions under certain
 24 prepaid contracts and investment accounts; providing for the construction and
 25 application of this Act; defining certain terms; and generally relating to the
 26 Maryland Higher Education Investment Board, the Maryland Prepaid College
 27 Trust, and the Maryland College Investment Plan.

28 BY repealing and reenacting, with amendments,
 29 Article - Education
 30 Section 18-1901, 18-1903 through 18-1907, 18-1909 through 18-1911, and
 31 18-1913 through 18-1916 to be under the amended subtitle "Subtitle 19.
 32 Maryland Prepaid College Trust"
 33 Annotated Code of Maryland
 34 (1999 Replacement Volume)

35 BY adding to
 36 Article - Education
 37 Section 18-1906.1; and 18-19A-01 through 18-19A-07 to be under the new
 38 subtitle "Subtitle 19A. Maryland College Investment Plan"
 39 Annotated Code of Maryland
 40 (1999 Replacement Volume)

41 BY repealing and reenacting, without amendments,
 42 Article - Tax - General
 43 Section 10-205(a), 10-207(a), and 10-208(a)

1 Annotated Code of Maryland
2 (1997 Replacement Volume and 1999 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Tax - General
5 Section 10-205(h), 10-207(s), and 10-208(n)
6 Annotated Code of Maryland
7 (1997 Replacement Volume and 1999 Supplement)

8 BY adding to
9 Article - Tax - General
10 Section ~~10-205(i)~~ and 10-208(o)
11 Annotated Code of Maryland
12 (1997 Replacement Volume and 1999 Supplement)

13 BY repealing and reenacting, with amendments,
14 Chapter 110 of the Acts of the General Assembly of 1997
15 Section 5

16 BY repealing and reenacting, with amendments,
17 Chapter 111 of the Acts of the General Assembly of 1997
18 Section 5

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

21 **Article - Education**

22 Subtitle 19. Maryland [Higher Education Investment Program] PREPAID COLLEGE
23 TRUST.

24 18-1901.

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

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

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

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

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

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

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

7 (F) "MARKET VALUE OF PROGRAM ASSETS" MEANS THE ~~FAIR MARKET VALUE~~
8 ~~AMOUNT OF THE ASSETS OF THE PROGRAM PLUS THE CASH AND CASH~~
9 ~~EQUIVALENTS HELD BY THE PROGRAM~~ PLUS THE FAIR MARKET VALUE OF OTHER
10 ASSETS OF THE PROGRAM.

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

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

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

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

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

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

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

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

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

32 (L) "QUALIFIED STATE TUITION PROGRAM" HAS THE MEANING STATED IN §
33 529 OF THE INTERNAL REVENUE CODE.

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

1 18-1903.

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

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

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

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

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

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

15 (2) Bequests, endowments, or funds from any other available private
16 source;

17 (3) Interest and income earned from the investments of the Program;
18 and

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

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

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

25 (F) MONEYS OF THE PROGRAM MAY NOT BE CONSIDERED MONEYS OF THE
26 MARYLAND COLLEGE INVESTMENT PLAN AND MAY NOT BE COMMINGLED WITH THE
27 PLAN.

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

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

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

6 18-1904.

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

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

9 (1) THE MARYLAND PREPAID COLLEGE TRUST ESTABLISHED UNDER
10 THIS SUBTITLE; AND

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

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

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

15 (2) The State Superintendent of Schools;

16 (3) The State Treasurer;

17 (4) The State Comptroller; and

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

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

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

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

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

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

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

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

1 18-1905.

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

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

5 (c) A member of the Board:

6 (1) May not receive compensation;

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

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

11 (d) (1) The Board:

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

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

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

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

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

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

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

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

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

34 3. Is not in the executive service.

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

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

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

7 (f) In addition, the Board may:

8 (1) Adopt an official seal;

9 (2) Sue and be sued;

10 (3) Execute contracts and other necessary instruments;

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

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

16 (6) Invest funds not required for immediate disbursement;

17 (7) Solicit and accept gifts, grants, loans, or other aid from any source or
18 participate in any government program for purposes consistent with this subtitle AND
19 SUBTITLE 19A OF THIS TITLE;

20 (8) Subject to the review of the General Assembly, impose and collect
21 reasonable administrative fees for any transactions involving [higher education
22 investment] PREPAID contracts or transactions affecting the Program OR THE PLAN;

23 (9) Procure insurance against any loss of assets of the Program OR THE
24 PLAN;

25 (10) Endorse insurance coverage written exclusively for the purpose of
26 protecting a [higher education investment] PREPAID contract and the purchaser and
27 qualified beneficiary of the contract;

28 (11) Designate terms under which money may be withdrawn from the
29 Program OR THE PLAN;

30 (12) Establish additional procedural and substantive requirements for
31 participation in and the administration or marketing of the Program OR THE PLAN;

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

1 (14) Take any other action that the Board considers appropriate to
2 implement and administer the Program OR THE PLAN.

3 18-1906.

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

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

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

10 (d) The comprehensive investment plan must indicate the percentage of assets
11 that shall be held in each class of investment, the amount of funds held in any cash
12 pool, the amount of funds held in fixed assets investments, the amount of funds held
13 in equity investments, and the percentage and dollar value of assets placed with
14 outside managers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (2) THE BOARD MAY NOT REBATE ANY AMOUNT TO ~~OWNERS~~
26 PURCHASERS IF, WITHIN THE 5 YEARS IMMEDIATELY PRECEDING THE PROPOSED
27 REBATE:

28 (I) THE BOARD HAS REQUESTED AN APPROPRIATION UNDER §
29 18-1906.1 OF THIS SUBTITLE; OR

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

32 18-1906.1.

33 (A) IF THE CURRENT PREPAID CONTRACT OBLIGATIONS OF THE PROGRAM
34 EXCEED THE MARKET VALUE OF PROGRAM ASSETS, AT THE REQUEST OF THE BOARD
35 THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL SUBMITTED TO THE

1 GENERAL ASSEMBLY AN APPROPRIATION IN THE AMOUNT DETERMINED UNDER
2 SUBSECTION (B) OF THIS SECTION.

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

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

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

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

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

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

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

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

27 18-1907.

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

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

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

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

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

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

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

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

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

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

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

12 (6) In accordance with the documents and instruments governing the
13 Program to the extent that the documents and instruments are consistent with this
14 subtitle.

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

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

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

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

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

27 18-1909.

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

31 (1) A community college;

32 (2) A 4-year college;

33 (3) A university; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (7) Terms and conditions for a substitution for the qualified beneficiary
33 originally named;

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

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

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

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

7 [(12) The following notice shall be printed on each contract in at least
8 10-point type: This contract is not an obligation of the State and neither the faith and
9 credit nor taxing power of the State is pledged directly or indirectly or contingently,
10 morally or otherwise, to the payment of this contract. The Board cannot directly or
11 indirectly or contingently obligate, morally or otherwise, the State to levy or pledge
12 any form of taxation whatsoever or to make any appropriation for the payment of this
13 contract;] and

14 [(13)] (12) Any other terms and conditions that the Board considers
15 necessary or appropriate.

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

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

25 (G) THE BOARD SHALL ALLOW THE TRANSFER OF FUNDS FROM THE
26 PROGRAM TO ANY OTHER QUALIFIED STATE TUITION PROGRAM OR FROM ANY
27 OTHER QUALIFIED STATE TUITION PROGRAM TO THE PROGRAM, IN ACCORDANCE
28 WITH FEDERAL LAW.

29 (H) THE BOARD SHALL SET PROCEDURES TO ENSURE THAT CONTRIBUTIONS
30 TO THE PROGRAM PLUS CONTRIBUTIONS OR PAYMENTS TO OTHER QUALIFIED
31 STATE TUITION PROGRAMS DO NOT EXCEED A TOTAL MAXIMUM AMOUNT
32 DETERMINED BY § 529 OF THE INTERNAL REVENUE CODE FOR CONTRIBUTIONS TO
33 MULTIPLE QUALIFIED STATE TUITION PROGRAMS.

34 18-1910.

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

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

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

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

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

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

12 (i) The beneficiary does not attend an institution of higher
13 education;

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

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

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

21 18-1911.

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

24 18-1913.

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

28 18-1914.

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

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

1 18-1915.

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

5 18-1916.

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

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

10 [(2)] (3) The Board shall pay for the audit REQUIRED UNDER
11 PARAGRAPH (2) OF THIS SUBSECTION.

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

15 (i) The [legislative] audit OF THE OUTSIDE INDEPENDENT
16 AUDITOR;

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

18 1. The annual review of the comprehensive investment plan
19 which shall include:

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

23 B. The assets held in each class of investment, the amount of
24 funds held in any cash pool, the amount of funds held in fixed assets investments, and
25 the amount of funds held in equity investments;

26 C. The percentage and dollar value of assets placed with
27 outside managers;

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

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

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

33 A. Salaries, wages, and fringe benefits;

34 B. Technical and special fees;

- 1 C. Communication;
- 2 D. Travel;
- 3 E. Contractual services;
- 4 F. Supplies and materials;
- 5 G. Equipment;
- 6 H. Fixed charges; and
- 7 I. Other expenses.

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

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

12 (v) Any recommendations of the Board concerning the operation of
13 the Program.

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

16 SUBTITLE 19A. MARYLAND COLLEGE INVESTMENT PLAN.

17 18-19A-01.

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

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

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

25 (D) "ELIGIBLE EDUCATIONAL INSTITUTION" HAS THE MEANING STATED IN §
26 529(E) OF THE INTERNAL REVENUE CODE.

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

1 (F) "QUALIFIED DESIGNATED BENEFICIARY" HAS THE MEANING STATED IN §
2 529(E) OF THE INTERNAL REVENUE CODE.

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

5 (H) "QUALIFIED STATE TUITION PROGRAM" HAS THE MEANING STATED IN §
6 529 OF THE INTERNAL REVENUE CODE.

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

9 18-19A-02.

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

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

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

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

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

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

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

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

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

28 (4) TRANSFER OF FUNDS FROM THE PLAN TO OTHER QUALIFIED STATE
29 TUITION PROGRAMS AND FROM OTHER QUALIFIED STATE TUITION PROGRAMS TO
30 THE PLAN IN ACCORDANCE WITH FEDERAL LAW.

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

35 (1) THE BEGINNING BALANCE;

- 1 (2) CONTRIBUTIONS TO THE ACCOUNT;
- 2 (3) WITHDRAWALS FROM THE ACCOUNT DURING THE PREVIOUS YEAR;
- 3 AND
- 4 (4) ENDING INVESTMENT ACCOUNT VALUE.

5 18-19A-03.

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

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

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

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

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

16 (IV) ABILITY TO MARKET THE PLAN TO NONRESIDENTS OF
17 MARYLAND; AND

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

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

24 (2) THE BOARD MAY REQUIRE ADDITIONAL FEES ASSOCIATED WITH THE
25 EXPENSES OF THE PLAN.

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

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

32 (3) THE PLAN SHALL INCLUDE PROVISIONS FOR AUTOMATIC
33 CONTRIBUTIONS.

34 (D) THE BOARD SHALL ~~SET~~ ADOPT PROCEDURES TO ENSURE THAT
35 CONTRIBUTIONS TO THE PLAN PLUS CONTRIBUTIONS OR PAYMENTS TO OTHER

1 QUALIFIED STATE TUITION PROGRAMS DO NOT EXCEED A TOTAL MAXIMUM AMOUNT
2 DETERMINED UNDER § 529 OF THE INTERNAL REVENUE CODE FOR CONTRIBUTIONS
3 TO MULTIPLE QUALIFIED STATE TUITION PROGRAMS.

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

5 (I) SHALL BE ESTABLISHED IN THE FORM DETERMINED BY THE
6 BOARD; AND

7 (II) MAY BE ESTABLISHED AS A TRUST TO BE DECLARED BY THE
8 BOARD.

9 (2) THE PLAN MAY BE DIVIDED INTO MULTIPLE INVESTMENT
10 PORTFOLIOS.

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

17 (I) DISTINCT RECORDS ARE MAINTAINED FOR EACH PORTFOLIO;
18 AND

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

21 18-19A-04.

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

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

26 (C) REFUNDS SHALL BE DISBURSED TO THE CONTRIBUTOR OF THE
27 INVESTMENT ACCOUNT.

28 18-19A-05.

29 (A) (1) THE DEBTS, CONTRACTS, AND OBLIGATIONS OF THE ~~MARYLAND~~
30 ~~COLLEGE INVESTMENT~~ PLAN ARE NOT THE CONTRACTS, DEBTS, OR OBLIGATIONS OF
31 THE STATE AND NEITHER THE FAITH AND CREDIT NOR TAXING POWER OF THE
32 STATE IS PLEDGED DIRECTLY OR INDIRECTLY OR CONTINGENTLY, MORALLY OR
33 OTHERWISE, TO THE PAYMENT OF THE DEBTS, CONTRACTS, AND OBLIGATIONS.

34 (2) THE BOARD CANNOT DIRECTLY OR INDIRECTLY OR CONTINGENTLY
35 OBLIGATE, MORALLY OR OTHERWISE, THE STATE TO LEVY OR PLEDGE ANY FORM OF
36 TAXATION WHATSOEVER FOR THE DEBTS AND OBLIGATIONS OF THE ~~MARYLAND~~

1 ~~COLLEGE INVESTMENT~~ PLAN OR TO MAKE ANY APPROPRIATION FOR THE PAYMENT
2 OF THE DEBTS AND OBLIGATIONS OF THE PLAN.

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

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

10 ~~(C)~~ (D) MONEYS OF THE PLAN MAY NOT BE CONSIDERED MONEYS OF OR
11 COMMINGLED WITH THE MARYLAND PREPAID COLLEGE TRUST ~~AND MAY NOT BE~~
12 ~~COMMINGLED WITH THE MARYLAND PREPAID COLLEGE TRUST.~~

13 18-19A-06.

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

16 18-19A-07.

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

19 (2) THE BOARD SHALL OBTAIN AN ANNUAL AUDIT REPORT FROM
20 SERVICE PROVIDERS.

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

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

25 1. AN ANNUAL REVIEW OF THE PLAN WHICH SHALL
26 INCLUDE:

27 A. THE STATUS OF THE INVESTMENT PROGRAM;

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

29 C. THE PERCENTAGE AND DOLLAR VALUE OF ASSETS
30 PLACED WITH OUTSIDE MANAGERS;

31 D. THE INCOME PRODUCED BY EACH CLASS OF
32 INVESTMENT;

33 E. THE INCOME PRODUCED BY EACH INVESTMENT
34 MANAGER;

1 F. THE TOTAL DEPOSITS INTO THE PLAN FOR THE PAST
2 YEAR; AND

3 G. THE TOTAL WITHDRAWALS FROM THE PLAN FOR THE
4 PAST YEAR; AND

5 2. A DETAILED ACCOUNT OF THE OPERATING AND
6 ADMINISTRATIVE BUDGET FOR THE PLAN, WHICH SHALL INCLUDE A COMPLETE LIST
7 OF REVENUE SOURCES AND EXPENDITURES DETAILING THE LINE ITEM
8 EXPENDITURES FOR:

9 A. SALARIES, WAGES, AND FRINGE BENEFITS;

10 B. TECHNICAL AND SPECIAL FEES;

11 C. COMMUNICATION;

12 D. TRAVEL;

13 E. CONTRACTUAL SERVICES;

14 F. SUPPLIES AND MATERIALS;

15 G. EQUIPMENT;

16 H. FIXED CHARGES; AND

17 I. OTHER EXPENSES;

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

20 (III) EFFORTS IN MARKETING THE PLAN; AND

21 (IV) ANY RECOMMENDATIONS OF THE BOARD CONCERNING THE
22 OPERATION OF THE PLAN.

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

26 **Article - Tax - General**

27 10-205.

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

31 (h) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
32 MEANINGS INDICATED.

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

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

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

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

9 (I) any refund received by an individual in the taxable year BY A
 10 PURCHASER under a [higher education investment] PREPAID contract in accordance
 11 with the Maryland [Higher Education Investment Program] PREPAID COLLEGE
 12 TRUST that is not applied on behalf of the beneficiary for charges imposed by an
 13 institution of higher education for enrollment at the institution, including tuition and
 14 registration and other fees required as a condition of enrollment OR A CONTRIBUTOR
 15 UNDER AN INVESTMENT ACCOUNT IN ACCORDANCE WITH THE MARYLAND COLLEGE
 16 INVESTMENT PLAN; OR

17 (II) ANY DISTRIBUTION RECEIVED IN THE TAXABLE YEAR BY A
 18 PURCHASER UNDER A PREPAID CONTRACT IN ACCORDANCE WITH THE MARYLAND
 19 PREPAID COLLEGE TRUST OR A CONTRIBUTOR UNDER AN INVESTMENT ACCOUNT IN
 20 ACCORDANCE WITH THE MARYLAND COLLEGE INVESTMENT PLAN THAT IS NOT
 21 USED ON BEHALF OF THE QUALIFIED BENEFICIARY OR QUALIFIED DESIGNATED
 22 BENEFICIARY FOR QUALIFIED HIGHER EDUCATION EXPENSES.

23 ~~(2)~~ (3) The amount of the addition required under this subsection shall
 24 be reduced by any amount included in the individual's federal adjusted gross income
 25 as a result of the refund.

26 ~~(3)~~ (4) The cumulative amount of the addition under this subsection
 27 for the taxable year and all prior taxable years may not exceed the cumulative
 28 amount allowed as a subtraction;

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

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

37 ~~(4)~~ ~~(+)~~ IN THIS SUBSECTION, "INVESTMENT ACCOUNT", "QUALIFIED
 38 DESIGNATED BENEFICIARY", "CONTRIBUTOR", AND "QUALIFIED HIGHER EDUCATION
 39 EXPENSES" HAVE THE MEANINGS STATED IN § 18-19A-01 OF THE EDUCATION
 40 ARTICLE.

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

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

7 (II) A DISTRIBUTION THAT IS NOT USED BY THE QUALIFIED
8 BENEFICIARY OR QUALIFIED DESIGNATED BENEFICIARY FOR QUALIFIED HIGHER
9 EDUCATION EXPENSES.

10 10-208.

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

14 (n) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE
15 MEANINGS INDICATED.

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

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

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

26 (2) (3) Subject to paragraph (3) (4) of this subsection, for each [higher
27 education investment] PREPAID contract, the subtraction under paragraph (4) (2) of
28 this subsection may not exceed \$2,500 for any taxable year.

29 (3) (4) The amount disallowed as a subtraction under this subsection
30 for any taxable year as a result of the limitation under paragraph (2) (3) of this
31 subsection shall be treated as having been made in the next succeeding taxable year
32 and, subject to the \$2,500 annual limitation for each [higher education investment]
33 PREPAID contract, may be carried over to succeeding taxable years until the full
34 amount of the advance payments has been allowed as a subtraction.

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

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

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

7 (4) THE AMOUNT DISALLOWED AS A SUBTRACTION UNDER THIS
 8 SUBSECTION FOR ANY TAXABLE YEAR AS A RESULT OF THE LIMITATION UNDER
 9 PARAGRAPH (3) OF THIS SUBSECTION SHALL BE TREATED AS HAVING BEEN
 10 CONTRIBUTED IN THE NEXT 10 SUCCEEDING TAXABLE YEARS AND, SUBJECT TO THE
 11 \$2,500 ANNUAL LIMITATION FOR EACH COLLEGE SAVINGS PLAN INVESTMENT
 12 ACCOUNT, MAY BE CARRIED OVER TO SUCCEEDING TAXABLE YEARS AS A
 13 SUBTRACTION.

14 **Chapter 110 of the Acts of 1997**

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

23 **Chapter 111 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 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
 33 construed and applied to affect all prepaid contracts purchased prior to the effective
 34 date of this Act.

35 SECTION 3. AND BE IT FURTHER ENACTED, That ~~§§ 10-205(i) and~~
 36 ~~10-208(e)~~ §§ 10-205(h), 10-207(s), and 10-208(n) and (o) of the Tax - General Article
 37 as enacted under Section 1 of this Act shall be applicable to all taxable years
 38 beginning after December 31, 2000.

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

