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By: **Chairman, Appropriations Committee (Departmental - Maryland  
Prepaid College Trust)**

Introduced and read first time: February 7, 2002

Assigned to: Ways and Means

Re-referred to: Appropriations, March 21, 2002

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 31, 2002

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

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**College Savings Plans of Maryland**

3 FOR the purpose of establishing the College Savings Plans of Maryland which include  
4 certain existing tuition programs and certain additional State tuition programs  
5 under certain circumstances; clarifying the purpose of the College Savings Plans  
6 of Maryland; changing the name of the Maryland Higher Education Investment  
7 Board to the College Savings Plans of Maryland Board; altering the duties and  
8 responsibilities of the Board; authorizing Board members to designate a  
9 representative under certain circumstances; ~~authorizing the Board to create~~  
10 ~~additional qualified State tuition programs under certain circumstances and~~  
11 ~~subject to certain requirements~~; providing that the College Savings Plans, the  
12 Board, and investment accounts are not subject to certain provisions of law;  
13 requiring certain custodians to deny the inspection of certain public records  
14 under certain circumstances; authorizing the inspection of certain public  
15 records; requiring certain disclosures; altering certain terms; clarifying certain  
16 definitions; and generally relating to the College Savings Plans of Maryland.

17 BY repealing and reenacting, with amendments,  
18 Article - Education  
19 Section 18-1901, 18-1903 through 18-1906.1, 18-1907 through 18-1913,  
20 18-1916, 18-19A-01, 18-19A-02, 18-19A-04, 18-19A-05, and 18-19A-07  
21 Annotated Code of Maryland  
22 (2001 Replacement Volume)

23 BY adding to

1 Article - Education  
2 Section 18-1902.1, ~~18-1905.1~~, and 18-19A-05.1  
3 Annotated Code of Maryland  
4 (2001 Replacement Volume)

5 BY repealing and reenacting, without amendments,  
6 Article - State Government  
7 Section 10-616(a)  
8 Annotated Code of Maryland  
9 (1999 Replacement Volume and 2001 Supplement)

10 BY repealing and reenacting, with amendments,  
11 Article - State Government  
12 Section 10-616(n)  
13 Annotated Code of Maryland  
14 (1999 Replacement Volume and 2001 Supplement)

15 BY repealing and reenacting, with amendments,  
16 Chapter 110 of the Acts of the General Assembly of 1997, as amended by  
17 Chapter 494 of the Acts of the General Assembly of 2000  
18 Section 5

19 BY repealing and reenacting, with amendments,  
20 Chapter 111 of the Acts of the General Assembly of 1997, as amended by  
21 Chapter 494 of the Acts of the General Assembly of 2000  
22 Section 5

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

25 **Article - Education**

26 18-1901.

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

28 (b) "Board" means the [Maryland Higher Education Investment Board]  
29 COLLEGE SAVINGS PLANS OF MARYLAND BOARD.

30 (c) "Current prepaid contract obligations" means the scheduled payments due  
31 for the next fiscal year under existing prepaid contracts.

32 (d) "Eligible institution of higher education" means an institution of higher  
33 education that:

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

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

2 (e) "Prepaid contract" means a contract between the Board and a purchaser  
3 under the provisions of this subtitle for the advance payment of qualified higher  
4 education expenses by the purchaser for a qualified beneficiary to attend an eligible  
5 institution of higher education, if the qualified beneficiary is admitted to the  
6 institution.

7 (f) "Market value of program assets" means the amount of cash and cash  
8 equivalents held by the [Program] TRUST plus the fair market value of other assets  
9 of the [Program] TRUST.

10 (g) "Plan" means the Maryland College Investment Plan established under  
11 Subtitle 19A of this title.

12 (h) "Program" means the [Maryland Prepaid College Trust established under  
13 this subtitle] COLLEGE SAVINGS PLANS OF MARYLAND.

14 (i) "Purchaser" means an individual who:

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

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

20 (j) "Qualified beneficiary" means an individual who:

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

24 (2) Except as provided in § 18-1909(b) of this subtitle, is a resident of the  
25 State or of the District of Columbia at the time that the purchaser enters into a  
26 prepaid contract.

27 (k) "Qualified higher education expenses" has the meaning stated in § 529(e)  
28 of the Internal Revenue Code.

29 (l) "Qualified state tuition program" has the meaning stated in § 529 of the  
30 Internal Revenue Code.

31 (m) "TRUST" MEANS THE MARYLAND PREPAID COLLEGE TRUST ESTABLISHED  
32 UNDER THIS SUBTITLE.

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

1 18-1902.1.

2 (A) THERE IS A PROGRAM ENTITLED THE COLLEGE SAVINGS PLANS OF  
3 MARYLAND.

4 (B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE FOR THE  
5 ADMINISTRATION BY THE BOARD OF THE MARYLAND PREPAID COLLEGE TRUST AND  
6 THE MARYLAND COLLEGE INVESTMENT PLAN ~~AND ANY OTHER QUALIFIED STATE~~  
7 ~~TUITION PROGRAM ESTABLISHED BY THE BOARD IN ACCORDANCE WITH § 18-1905.1~~  
8 ~~OF THIS SUBTITLE.~~

9 18-1903.

10 (a) There is a Maryland Prepaid College Trust.

11 (b) The purpose of the [Program] TRUST is to provide:

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

14 (2) An assurance to a beneficiary who enrolls at an eligible institution of  
15 higher education that the Board shall make every effort to invest the advance  
16 payments so that the prepaid contract will cover the average in-State tuition costs at  
17 public institutions of higher education in the State at the time that the benefits are  
18 exercised.

19 (c) THE BOARD SHALL ADMINISTER THE TRUST IN COMPLIANCE WITH  
20 INTERNAL REVENUE SERVICE STANDARDS FOR QUALIFIED STATE TUITION  
21 PROGRAMS.

22 (D) The funds of the [Program] TRUST consist of:

23 (1) Payments received from prepaid contracts made under the provisions  
24 of this subtitle;

25 (2) Bequests, endowments, or funds from any other available private  
26 source;

27 (3) Interest and income earned from the investments of the [Program]  
28 TRUST; and

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

31 [(d)] (E) Money remaining in the [Program] TRUST at the end of the fiscal  
32 year shall remain in the [Program] TRUST and may not revert to the General Fund of  
33 the State.

34 [(e)] (F) Moneys of the [Program] TRUST may not be considered moneys of  
35 the State and may not be deposited into the Treasury.

1 [(f)] (G) Moneys of the [Program] TRUST may not be considered moneys of  
2 the Maryland College Investment Plan and may not be commingled with the Plan.

3 [(g)] (H) (1) The debts, contracts, and obligations of the [Program] TRUST  
4 are not the contracts, debts, or obligations of the State and neither the faith and  
5 credit nor taxing power of the State is pledged directly or indirectly or contingently,  
6 morally or otherwise, to the payment of the debts, contracts, and obligations.

7 (2) The Board cannot directly or indirectly or contingently obligate,  
8 morally or otherwise, the State to levy or pledge any form of taxation whatsoever for  
9 the debts and obligations of the [Program] TRUST or to make any appropriation for  
10 the payment of the debts and obligations of the [Program] TRUST.

11 [(h)] (I) Neither the State nor any eligible institution of higher education  
12 shall be liable for any losses or shortage of funds in the event that the Maryland  
13 Prepaid College Trust is insufficient to meet the tuition requirements of an  
14 institution attended by the qualified beneficiary.

15 18-1904.

16 (a) There is a [Maryland Higher Education Investment Program] COLLEGE  
17 SAVINGS PLANS OF MARYLAND Board.

18 (b) The Board shall [oversee the administration of] ADMINISTER:

19 (1) The Maryland Prepaid College Trust established under this subtitle;  
20 and

21 (2) The Maryland College Investment Plan established under Subtitle  
22 19A of this title[.]; ~~AND~~.

23 ~~(3) ANY OTHER QUALIFIED STATE TUITION PROGRAM ESTABLISHED BY~~  
24 ~~THE BOARD PURSUANT TO § 18-1905.1 OF THIS SUBTITLE.~~

25 (c) The Board consists of the following nine members:

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

27 (2) The State Superintendent of Schools;

28 (3) The State Treasurer;

29 (4) The State Comptroller; and

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

33 (d) A MEMBER OF THE BOARD DESIGNATED UNDER PARAGRAPHS (1)  
34 THROUGH (4) OF SUBSECTION (C) OF THIS SECTION MAY DESIGNATE A MEMBER OF  
35 THEIR STAFF TO REPRESENT THE MEMBER OF THE BOARD.

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

3 [(e)] (F) (1) Except for the terms of the initial members of the Board, the  
4 term of a public member of the Board is 4 years.

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

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

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

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

12 [(f)] (G) The Governor may remove a public member for incompetence or  
13 misconduct.

14 18-1905.

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

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

18 (c) A member of the Board:

19 (1) May not receive compensation;

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

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

24 (d) (1) The Board:

25 (i) Shall appoint [an] A PROGRAM executive director who is in the  
26 executive service of the State Personnel Management System; and

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

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

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

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

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

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

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

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

16 3. Is not in the executive service.

17 (3) The Board may retain the services of consultants, administrators,  
18 and other personnel, as necessary, to administer the [Program] TRUST or the Plan.

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

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

23 (f) In addition, the Board may:

24 (1) Adopt an official seal;

25 (2) Sue and be sued;

26 (3) Execute contracts and other necessary instruments;

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

29 (5) Enter into agreements with eligible institutions of higher education  
30 and other public or private entities for the promotion, administration, or marketing of  
31 the Program, THE TRUST or the Plan;

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

1 (7) Solicit and accept gifts, grants, loans, or other aid from any source or  
2 participate in any government program for purposes consistent with this subtitle and  
3 Subtitle 19A of this title;

4 (8) Subject to the review of the General Assembly, impose and collect  
5 reasonable administrative fees for any transactions UNDER THE TRUST OR THE PLAN  
6 OR involving prepaid contracts or transactions affecting the Program or the Plan;

7 (9) Procure insurance against any loss of assets of the Program, THE  
8 TRUST or the Plan;

9 (10) Endorse insurance coverage written exclusively for the purpose of  
10 protecting [a prepaid contract and the purchaser and qualified beneficiary of the  
11 contract];

12 (I) A PREPAID CONTRACT UNDER THE TRUST AND THE  
13 PURCHASER AND THE QUALIFIED BENEFICIARY OF THE CONTRACT; OR

14 (II) AN INVESTMENT ACCOUNT UNDER THE PLAN AND THE  
15 ACCOUNT HOLDER AND QUALIFIED DESIGNATED BENEFICIARY OF THE  
16 INVESTMENT ACCOUNT.

17 (11) Designate terms under which money may be withdrawn from the  
18 TRUST, Program or the Plan;

19 (12) Establish additional procedural and substantive requirements for  
20 participation in and the administration or marketing of the TRUST, Program or the  
21 Plan;

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

24 (14) Take any other action that the Board considers appropriate to  
25 implement and administer the TRUST, Program or the Plan.

26 ~~18-1905.1.~~

27 ~~(A) THE BOARD MAY CREATE ADDITIONAL QUALIFIED STATE TUITION  
28 PROGRAMS AS THE BOARD DETERMINES TO BE NECESSARY OR CONVENIENT TO  
29 CARRY OUT THE PURPOSES OF THIS SUBTITLE AND SUBTITLE 19A OF THIS TITLE.~~

30 ~~(B) THE BOARD SHALL ADMINISTER ANY ADDITIONAL QUALIFIED STATE  
31 TUITION PROGRAMS IN COMPLIANCE WITH INTERNAL REVENUE SERVICE  
32 STANDARDS FOR QUALIFIED STATE TUITION PROGRAMS.~~

33 ~~(C) THE BOARD SHALL ADOPT PROCEDURES FOR ANY ADDITIONAL  
34 QUALIFIED STATE TUITION PROGRAMS THAT THE BOARD CONSIDERS NECESSARY TO  
35 CARRY OUT THE PROVISIONS OF THIS SUBTITLE OR SUBTITLE 19A OF THIS TITLE, AS  
36 APPLICABLE.~~

1 18-1906.

2 (a) The Board shall adopt a comprehensive investment plan for the  
3 administration of the [Program] TRUST.

4 (b) The plan shall specify the investment policies used by the Board in the  
5 administration of the [Program] TRUST.

6 (c) Assets of the [Program] TRUST shall be invested in accordance with the  
7 comprehensive investment plan.

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

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

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

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

26 (g) The comprehensive investment plan shall provide for the [Program]  
27 TRUST to be administered in an actuarially sound manner to assure that the Board  
28 may defray obligations of the [Program] TRUST.

29 (h) The Board shall review the comprehensive investment plan at least  
30 annually to assure that the [Program] TRUST remains actuarially sound.

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

35 (j) The Board:

36 (1) Shall preserve, invest, and expend the assets of the [Program]  
37 TRUST solely for the purposes of this subtitle; and

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

3 (k) The [Program] TRUST is not subject to § 7-302 of the State Finance and  
4 Procurement Article.

5 (l) Unless the Board provides otherwise by regulation, the Board shall use the  
6 proceeds in the [Program] TRUST in the following order:

7 (1) To pay eligible institutions of higher education in accordance with the  
8 Board's obligations under prepaid contracts;

9 (2) To refund money on the termination of prepaid contracts; and

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

11 (m) (1) Except as provided in paragraph (2) of this subsection, if the Board  
12 determines after an annual review that the market value of [Program] TRUST assets  
13 exceeds the amount necessary to satisfy all scheduled payments currently due or  
14 scheduled to become due under all prepaid contracts by 30% or more, the Board may  
15 provide for a rebate from the excess to purchasers of existing prepaid contracts in an  
16 amount to be determined by the Board.

17 (2) The Board may not rebate any amount to purchasers if, within the 5  
18 years immediately preceding the proposed rebate:

19 (i) The Board has requested an appropriation under § 18-1906.1 of  
20 this subtitle; or

21 (ii) The [Program] TRUST has failed to repay to the State any  
22 appropriation under § 18-1906.1 of this subtitle.

23 18-1906.1.

24 (a) If the current prepaid contract obligations of the [Program] TRUST exceed  
25 the market value of [Program] TRUST assets, at the request of the Board the  
26 Governor shall include in the annual budget bill submitted to the General Assembly  
27 an appropriation in the amount determined under subsection (b) of this section.

28 (b) The appropriation to be included in the budget bill under subsection (a) of  
29 this section shall equal the difference between the current prepaid contract  
30 obligations and the market value of [Program] TRUST assets.

31 (c) For purposes of this section, the current prepaid contract obligations and  
32 the market value of [Program] TRUST assets:

33 (1) Shall be determined as of June 30 of the calendar year that ended  
34 before the beginning of the fiscal year for which the appropriation is requested; and

35 (2) Shall be verified by the report of the independent outside auditor  
36 required under § 18-1916 of this subtitle.

1 (d) (1) The amount appropriated under this section shall be deposited into  
2 the [Program] TRUST.

3 (2) All amounts paid into the [Program] TRUST under this section shall  
4 constitute and be accounted for as advances to the [Program] TRUST.

5 (3) Subject to the rights of the [Program's] TRUST'S contract holders,  
6 amounts appropriated under this section shall be repaid to the State without interest  
7 in equal amounts in each of the next 2 fiscal years succeeding the one for which the  
8 appropriation was made.

9 (4) If the appropriation in the State budget as enacted by the General  
10 Assembly is less than the amount specified under subsection (b) of this section, the  
11 Board may adjust the terms of subsequent or current prepaid contracts to ensure  
12 continued actuarial soundness of the [Program] TRUST.

13 18-1907.

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

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

16 (2) An employee of the [Maryland Prepaid College] PROGRAM OR THE  
17 Trust who exercises any discretionary authority or control over:

18 (i) The management or administration of the [Program] TRUST; or

19 (ii) The management or disposition of the assets of the [Program]  
20 TRUST.

21 (b) A fiduciary shall discharge the fiduciary's duties with respect to the  
22 [Program] TRUST:

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

24 (2) For the exclusive purposes of providing benefits to the participants  
25 and providing reasonable expenses of administering the [Program] TRUST;

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

29 (4) By diversifying the investments of the [Program] TRUST so as to  
30 minimize the risk of large losses, unless under the circumstances it is clearly prudent  
31 not to do so;

32 (5) In accordance with the laws governing the [Program] TRUST; and

33 (6) In accordance with the documents and instruments governing the  
34 [Program] TRUST to the extent that the documents and instruments are consistent  
35 with this subtitle.

1 (c) In exercising authority, control, or discretion with respect to the  
2 [Program] TRUST, a fiduciary may not:

3 (1) Use the assets of the [Program] TRUST for the fiduciary's own  
4 interest or account;

5 (2) Act in a transaction involving the [Program] TRUST on behalf of a  
6 person, or represent a person, if the interests of the person are adverse to the  
7 interests of the [Program] TRUST or the interests of participants;

8 (3) Receive any consideration for the fiduciary's own account from a  
9 person dealing with the [Program] TRUST in connection with a transaction involving  
10 the assets of the [Program] TRUST; or

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

13 18-1908.

14 (a) The Board shall purchase a bond for each fiduciary in accordance with  
15 Title 9, Subtitle 17 of the State Government Article.

16 (b) Unless a fiduciary is bonded, the fiduciary may not exercise custody or  
17 control of any assets of the [Program] TRUST.

18 (c) A fiduciary may not allow another fiduciary to act in violation of this  
19 section.

20 18-1909.

21 (a) The Board shall establish [a program] UNDER THE TRUST A SERIES of  
22 prepaid contracts to provide for the advance payment of tuition and mandatory fees  
23 at:

24 (1) A community college;

25 (2) A 4-year college;

26 (3) A university; or

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

28 (b) (1) For the purpose of entering into a prepaid contract, either the  
29 purchaser or the qualified beneficiary must be a resident of Maryland or of the  
30 District of Columbia at the time that the purchaser enters into the prepaid contract.

31 (2) For the purposes of determining residency for the purchase of a  
32 prepaid contract:

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

1 (ii) For residency in the District of Columbia, "resident" has the  
2 meaning stated in § 47-1801.04 of the District of Columbia Code Annotated.

3 (c) The cost of a prepaid contract shall be based on:

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

6 (2) The number of years expected to elapse between the purchase of a  
7 prepaid contract and the use of the benefits of the prepaid contract; and

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

10 (d) Each prepaid contract made under the provisions of this subtitle shall  
11 include the following provisions:

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

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

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

17 (4) Penalties for early withdrawal from the [Program] TRUST;

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

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

22 (7) Terms and conditions for a substitution for the qualified beneficiary  
23 originally named;

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

25 (9) The time period during which the qualified beneficiary may claim  
26 benefits from the [Program] TRUST;

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

30 (11) All other rights and obligations of the purchaser and the [Program]  
31 TRUST; and

32 (12) Any other terms and conditions that the Board considers necessary or  
33 appropriate.

1 (e) The Board shall allow the conversion of a prepaid contract from one tuition  
2 plan or payment option to a different tuition plan or payment option.

3 (f) The Board shall allow excess prepaid contract benefits due to receipt of a  
4 scholarship, tuition remission, or early graduation from college to be used toward the  
5 payment of other qualified higher education expenses, as specified by the Board, at  
6 an eligible institution of higher education.

7 (g) The Board shall allow the transfer of funds from the [Program] TRUST to  
8 any other qualified State tuition program or from any other qualified State tuition  
9 program to the [Program] TRUST, in accordance with federal law.

10 (h) The Board shall set procedures to ensure that contributions to the  
11 [Program] TRUST plus contributions or payments to other qualified State tuition  
12 programs do not exceed a total maximum amount determined by § 529 of the Internal  
13 Revenue Code for contributions to multiple qualified State tuition programs.

14 18-1910.

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

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

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

23 (1) Graduates early from college or is awarded a scholarship or tuition  
24 remission that covers benefits provided under the prepaid contract; or

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

27 (c) (1) A [discounted] REDUCED refund of the contributions made to the [Program]  
28 TRUST, as determined by the Board, shall be made if:

29 (i) The beneficiary does not attend an institution of higher  
30 education;

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

33 (iii) The prepaid contract is canceled by the purchaser.

34 (2) The time that a qualified beneficiary spends in active duty as a  
35 member of the United States armed forces shall be added to the time period allowed

1 to exercise the benefits under a prepaid contract before a termination under  
2 paragraph (1) of this subsection.

3 18-1911.

4 The Board, [Program] TRUST, and prepaid contracts issued under this subtitle  
5 are not subject to the provisions of the Insurance Article.

6 18-1912.

7 The assets and income of the [Program] TRUST are exempt from State and local  
8 taxation.

9 18-1913.

10 A person may not attach, execute, garnish, or otherwise seize any current or  
11 future benefit under a prepaid contract or any asset of the [Program] TRUST.

12 18-1916.

13 (a) (1) The Legislative Auditor shall audit the [Program] TRUST as  
14 provided under Title 2, Subtitle 12 of the State Government Article.

15 (2) The Board shall cause an audit of the [Program] TRUST to be made  
16 by an outside independent auditor annually.

17 (3) The Board shall pay for the audit required under paragraph (2) of  
18 this subsection.

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

22 (i) The audit of the outside independent auditor;

23 (ii) A financial accounting of the [Program] TRUST, including:

24 1. The annual review of the comprehensive investment plan  
25 which shall include:

26 A. The status of the investment program, including  
27 investment income matched to projected enrollment costs under the existing prepaid  
28 contracts;

29 B. The assets held in each class of investment, the amount of  
30 funds held in any cash pool, the amount of funds held in fixed assets investments, and  
31 the amount of funds held in equity investments;

32 C. The percentage and dollar value of assets placed with  
33 outside managers;

- 1 D. The income produced by each class of investment; and
- 2 E. The income produced by each investment manager; and
- 3 2. A detailed account of the operating and administrative
- 4 budget for the [Program] TRUST, which shall include a complete list of revenue
- 5 sources and expenditures detailing the line item expenditures for:
  - 6 A. Salaries, wages, and fringe benefits;
  - 7 B. Technical and special fees;
  - 8 C. Communication;
  - 9 D. Travel;
  - 10 E. Contractual services;
  - 11 F. Supplies and materials;
  - 12 G. Equipment;
  - 13 H. Fixed charges; and
  - 14 I. Other expenses.

15 (iii) The number of prepaid contracts entered into during the  
 16 previous fiscal year;

17 (iv) Efforts by the Board in marketing the [Program] TRUST of  
 18 prepaid contracts; and

19 (v) Any recommendations of the Board concerning the operation of  
 20 the [Program] TRUST.

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

23 ~~(C) ANY QUALIFIED STATE TUITION PROGRAM ADOPTED BY THE BOARD IN~~  
 24 ~~ACCORDANCE WITH § 18-1905.1 OF THIS SUBTITLE THAT PROVIDES FOR THE~~  
 25 ~~ADVANCE PAYMENT OF TUITION AT ELIGIBLE INSTITUTIONS OF HIGHER EDUCATION~~  
 26 ~~SHALL COMPLY WITH THE PROVISIONS OF THIS SECTION.~~

27 ~~(D)~~ THE AUDIT REQUIRED BY SUBSECTION (A)(2) OF THIS SECTION AND THE  
 28 REPORT REQUIRED BY SUBSECTION (B) OF THIS SECTION MAY BE COMBINED WITH  
 29 ANY OTHER AUDIT OR REPORT FOR THE SAME FISCAL YEAR REQUIRED TO BE  
 30 SUBMITTED BY THE BOARD TO THE GOVERNOR AND THE GENERAL ASSEMBLY.

31 18-19A-01.

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

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

3 (C) "Board" means the Maryland Higher Education Investment Board  
4 established under § 18-1904 of this title.

5 [(c) "Contributor" means the person who establishes an investment account on  
6 behalf of a qualified designated beneficiary.]

7 (d) "Eligible educational institution" has the meaning stated in § 529(e) of the  
8 Internal Revenue Code.

9 (e) "Investment account" means an account established by [a contributor] AN  
10 ACCOUNT HOLDER under this subtitle on behalf of a qualified designated beneficiary  
11 for the purpose of applying distributions toward qualified higher education expenses  
12 at eligible educational institutions.

13 (f) "Qualified designated beneficiary" has the meaning stated in § 529(e) of  
14 the Internal Revenue Code.

15 (g) "Qualified higher education expenses" has the meaning stated in § 529(e)  
16 of the Internal Revenue Code.

17 (h) "Qualified state tuition program" has the meaning stated in § 529 of the  
18 Internal Revenue Code.

19 (i) "Plan" means the Maryland College Investment Plan established under  
20 this subtitle.

21 18-19A-02.

22 (a) There is a Maryland College Investment Plan.

23 (b) The purpose of the Plan is to allow contributions to an investment account  
24 established for the purposes of meeting the qualified higher education expenses of the  
25 qualified designated beneficiary of the account.

26 (c) (1) The Board shall administer, manage, promote, and market the Plan.

27 (2) The Board shall administer the Plan in compliance with Internal  
28 Revenue Service standards for qualified State tuition programs.

29 (d) The Board shall adopt procedures that the Board considers necessary to  
30 carry out the provisions of this subtitle.

31 (e) The Board shall adopt procedures relating to:

32 (1) Application procedures for participation in the Plan;

33 (2) Start-up costs incurred by the State for the development of the Plan  
34 with these costs to be reimbursed to the State by the Plan;

1 (3) Early withdrawals, so that there will be no major detriment to the  
2 remaining [contributors] ACCOUNT HOLDERS in the Plan; and

3 (4) Transfer of funds from the Plan to other qualified State tuition  
4 programs and from other qualified State tuition programs to the Plan in accordance  
5 with federal law.

6 (f) At least annually, the Board shall issue to each [contributor to an  
7 investment account] ACCOUNT HOLDER a statement that provides a separate  
8 accounting for each qualified designated beneficiary providing the following  
9 information with respect to each account:

10 (1) The beginning balance;

11 (2) Contributions to the account;

12 (3) Withdrawals from the account during the previous year; and

13 (4) Ending investment account value.

14 18-19A-04.

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

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

19 (c) Refunds shall be disbursed to the [contributor] ACCOUNT HOLDER of the  
20 investment account.

21 18-19A-05.

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

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

30 (b) Neither the State nor any eligible educational institution shall be liable for  
31 any losses or shortage of funds in the event that the [contributor's] ACCOUNT  
32 HOLDER'S investment account balance is insufficient to meet the tuition  
33 requirements of an institution attended by the qualified designated beneficiary.

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

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

3 18-19A-05.1.

4 THE BOARD, PLAN, AND INVESTMENT ACCOUNTS ISSUED UNDER THIS  
5 SUBTITLE ARE NOT SUBJECT TO THE PROVISIONS OF THE INSURANCE ARTICLE.

6 18-19A-07.

7 (a) (1) The Legislative Auditor shall audit the Plan as provided under Title  
8 2, Subtitle 12 of the State Government Article.

9 (2) The Board shall obtain an annual audit report from service  
10 providers.

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

14 (i) A financial accounting of the Plan, including:

15 1. An annual review of the Plan which shall include:

16 A. The status of the investment program;

17 B. The assets held in each class of investment;

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

20 D. The income produced by each class of investment;

21 E. The income produced by each investment manager;

22 F. The total deposits into the Plan for the past year; and

23 G. The total withdrawals from the Plan for the past year; and

24 2. A detailed account of the operating and administrative  
25 budget for the Plan, which shall include a complete list of revenue sources and  
26 expenditures detailing the line item expenditures for:

27 A. Salaries, wages, and fringe benefits;

28 B. Technical and special fees;

29 C. Communication;

30 D. Travel;

- 1 E. Contractual services;
- 2 F. Supplies and materials;
- 3 G. Equipment;
- 4 H. Fixed charges; and
- 5 I. Other expenses;
- 6 (ii) The number of new [contributors to investment accounts]  
7 ACCOUNT HOLDERS during the previous fiscal year;
- 8 (iii) Efforts in marketing the Plan; and
- 9 (iv) Any recommendations of the Board concerning the operation of  
10 the Plan.

11 (2) The Board shall make available to each [contributor to an  
12 investment account] ACCOUNT HOLDER a copy of a summary of the report and the  
13 option to purchase the full report at a nominal charge.

14 ~~(C) ANY QUALIFIED STATE TUITION PROGRAM ADOPTED BY THE BOARD IN  
15 ACCORDANCE WITH § 18-1905.1 OF SUBTITLE 19 OF THIS TITLE THAT PROVIDES FOR  
16 THE ESTABLISHMENT OF INVESTMENT ACCOUNTS FOR THE PURPOSES OF MEETING  
17 THE QUALIFIED HIGHER EDUCATION EXPENSES OF A QUALIFIED DESIGNATED  
18 BENEFICIARY SHALL COMPLY WITH THE PROVISIONS OF THIS SECTION.~~

19 ~~(D) THE AUDIT REQUIRED BY SUBSECTION (A)(2) OF THIS SECTION AND THE  
20 REPORT REQUIRED BY SUBSECTION (B) OF THIS SECTION, AT THE BOARD'S  
21 DISCRETION, MAY BE COMBINED WITH ANY OTHER AUDIT OR REPORT FOR THE SAME  
22 FISCAL YEAR REQUIRED TO BE SUBMITTED BY THE BOARD TO THE GOVERNOR AND  
23 THE GENERAL ASSEMBLY.~~

24 **Article - State Government**

25 10-616.

26 (a) Unless otherwise provided by law, a custodian shall deny inspection of a  
27 public record, as provided in this section.

28 (n) (1) Subject to paragraph (2) of this subsection, a custodian shall deny  
29 inspection of any record disclosing:

30 (I) the name of a purchaser or qualified beneficiary of a [higher  
31 education investment] PREPAID contract under Title 18, Subtitle 19 of the Education  
32 Article; AND

1 (II) THE NAME OF AN ACCOUNT HOLDER OR QUALIFIED  
 2 DESIGNATED BENEFICIARY OF AN INVESTMENT ACCOUNT UNDER TITLE 18,  
 3 SUBTITLE 19A OF THE EDUCATION ARTICLE.

4 (2) A custodian:

5 (i) shall permit inspection by a person in interest; and

6 (ii) may release information to an eligible institution [designated  
 7 in a higher education investment contract in accordance with regulations of the  
 8 Maryland Higher Education Investment Program Board.] OF HIGHER EDUCATION  
 9 DESIGNATED:

10 1. BY A PURCHASER OF A PREPAID CONTRACT OR  
 11 QUALIFIED BENEFICIARY UNDER TITLE 18, SUBTITLE 19A OF THE EDUCATION  
 12 ARTICLE; OR

13 2. BY AN ACCOUNT HOLDER OR QUALIFIED DESIGNATED  
 14 BENEFICIARY UNDER TITLE 18, SUBTITLE 19A OF THE EDUCATION ARTICLE.

15 **Chapter 110 of the Acts of 1997, as amended by Chapter 494 of the Acts of**  
 16 **2000**

17 SECTION 5. AND BE IT FURTHER ENACTED, That the totality of the  
 18 marketing efforts undertaken by the [Maryland Higher Education Investment]  
 19 COLLEGE SAVINGS PLANS OF MARYLAND Board to market the Maryland Prepaid  
 20 College Trust AND THE MARYLAND COLLEGE INVESTMENT PLAN must include full  
 21 disclosure that the contract entered into under the provisions of this Act does not  
 22 guarantee that the earnings of the assets invested in the [Program] TRUST OR THE  
 23 PLAN will generate the difference between the projected costs of [tuition under the  
 24 contract] THE QUALIFIED HIGHER EDUCATION EXPENSES and the actual costs at the  
 25 time of enrollment.

26 **Chapter 111 of the Acts of 1997, as amended by Chapter 494 of the Acts of**  
 27 **2000**

28 SECTION 5. AND BE IT FURTHER ENACTED, That the totality of the  
 29 marketing efforts undertaken by the [Maryland Higher Education Investment]  
 30 COLLEGE SAVINGS PLANS OF MARYLAND Board to market the Maryland Prepaid  
 31 College Trust AND THE MARYLAND COLLEGE INVESTMENT PLAN must include full  
 32 disclosure that the contract entered into under the provisions of this Act does not  
 33 guarantee that the earnings of the assets invested in the [Program] TRUST OR THE  
 34 PLAN will generate the difference between the projected costs of [tuition under the  
 35 contract] THE QUALIFIED HIGHER EDUCATION EXPENSES and the actual costs at the  
 36 time of enrollment.

37 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
 38 construed and applied to affect all prepaid contracts purchased and investment  
 39 accounts opened prior to the effective date of this Act.

1 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2 July 1, 2002.