Unofficial Copy F2 2002 Regular Session 2lr0143 CF 2lr0075

By: Chairman, Appropriati	ions Committee (Departmental - Mar	ryland

Prepaid College Trust)
Introduced and read first time: February 7, 2002

Assigned to: Ways and Means

Re-referred to: Appropriations, March 21, 2002

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 31, 2002

CHAPTER

1 AN ACT concerning

2

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
- 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
- subject to certain requirements; providing that the College Savings Plans, the
- Board, and investment accounts are not subject to certain provisions of law;
- requiring certain custodians to deny the inspection of certain public records
- under certain circumstances; authorizing the inspection of certain public
- records; requiring certain disclosures; altering certain terms; clarifying certain
- 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

32 (d) "E 33 education that:

(1)

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1 2 3 4	Article - Education Section 18-1902.1 , 18-1905.1, and 18-19A-05.1 Annotated Code of Maryland (2001 Replacement Volume)
5 6 7 8 9	BY repealing and reenacting, without amendments, Article - State Government Section 10-616(a) Annotated Code of Maryland (1999 Replacement Volume and 2001 Supplement)
10 11 12 13 14	Annotated Code of Maryland
15 16 17 18	Chapter 494 of the Acts of the General Assembly of 2000
19 20 21 22	BY repealing and reenacting, with amendments, Chapter 111 of the Acts of the General Assembly of 1997, as amended by Chapter 494 of the Acts of the General Assembly of 2000 Section 5
23 24	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 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 29	(b) "Board" means the [Maryland Higher Education Investment Board] 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.

"Eligible institution of higher education" means an institution of higher

Offers an associate, bachelor, or graduate degree program; and

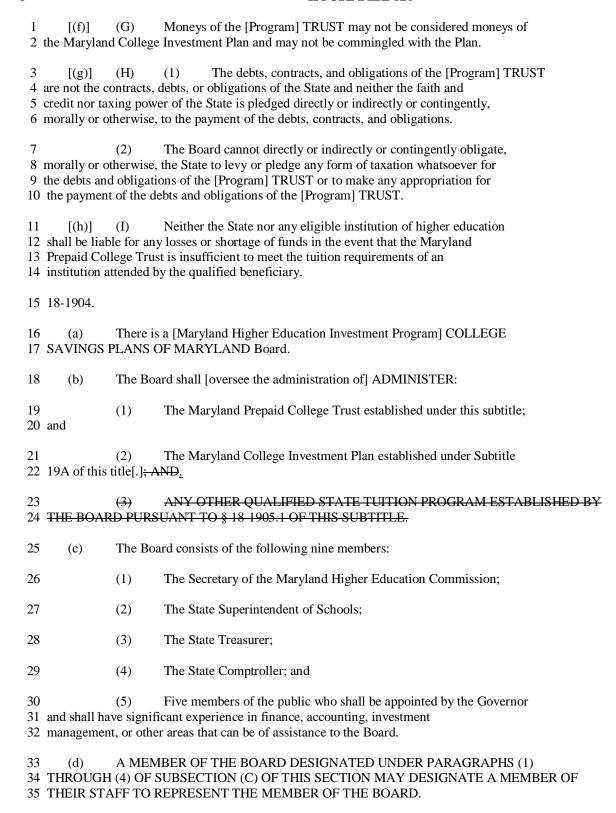
1 (2) Is eligible to participate in federal financial aid programs. 2 "Prepaid contract" means a contract between the Board and a purchaser (e) 3 under the provisions of this subtitle for the advance payment of qualified higher 4 education expenses by the purchaser for a qualified beneficiary to attend an eligible 5 institution of higher education, if the qualified beneficiary is admitted to the 6 institution. 7 "Market value of program assets" means the amount of cash and cash (f) 8 equivalents held by the [Program] TRUST plus the fair market value of other assets of the [Program] TRUST. "Plan" means the Maryland College Investment Plan established under 10 (g) 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 Makes or undertakes the obligation to make advance payments of (1)16 qualified higher education expenses as provided under a prepaid contract; and 17 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 prepaid contract. 20 (j) "Qualified beneficiary" means an individual who: Is eligible to apply advance payments of qualified higher education 21 (1) 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 Except as provided in § 18-1909(b) of this subtitle, is a resident of the (2) 25 State or of the District of Columbia at the time that the purchaser enters into a prepaid contract. "Qualified higher education expenses" has the meaning stated in § 529(e) 27 28 of the Internal Revenue Code. 29 "Qualified state tuition program" has the meaning stated in § 529 of the (1)30 Internal Revenue Code. "TRUST" MEANS THE MARYLAND PREPAID COLLEGE TRUST ESTABLISHED 31 32 UNDER THIS SUBTITLE. 33 "Tuition" means the charges imposed by an eligible institution of higher 34 education for enrollment at the institution and includes registration and all fees

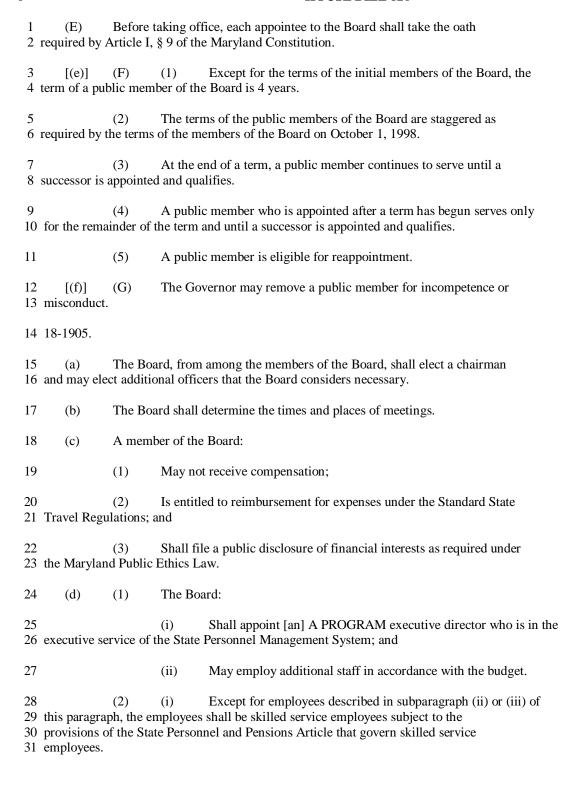
35 required as a condition of enrollment.

33 the State.

- 1 18-1902.1. (A) THERE IS A PROGRAM ENTITLED THE COLLEGE SAVINGS PLANS OF 2 3 MARYLAND. THE PURPOSE OF THE PROGRAM IS TO PROVIDE FOR THE 4 (B) 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 An assurance to a beneficiary who enrolls at an eligible institution of (2)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 Payments received from prepaid contracts made under the provisions (1) 24 of this subtitle; 25 Bequests, endowments, or funds from any other available private (2) 26 source; Interest and income earned from the investments of the [Program] 27 (3) 28 TRUST; and 29 Federal, State, or local funds, or funds from any other available (4) 30 public source. 31 [(d)]Money remaining in the [Program] TRUST at the end of the fiscal
- 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.

32 year shall remain in the [Program] TRUST and may not revert to the General Fund of





	(ii) An employee is in the professional service and subject to the provisions of the State Personnel and Pensions Article that govern professional service employees if the position:							
			Requires knowledge of an advanced type in a field of lby a course of specialized intellectual					
7 8	degree, or both.	2.	Normally requires a professional license, an advanced					
		el and Pe	oyee is in the management service and subject to the ensions Article that govern management					
12 13	and management of personnel a		Primarily involves direct responsibility for the oversight acial resources;					
14 15	judgment; and	2.	Requires the exercise of discretion and independent					
16		3.	Is not in the executive service.					
17 18	7 (3) The Board may retain the services of consultants, administrators, 8 and other personnel, as necessary, to administer the [Program] TRUST or the Plan.							
19 20	9 (4) The budget for the Board, THE PROGRAM and its staff is subject to 0 review by the General Assembly for information purposes only.							
21 22	1 (e) The Board may adopt any regulations that the Board considers necessary 2 to carry out the provisions of this subtitle or Subtitle 19A of this title.							
23	3 (f) In addition, the Board may:							
24	(1) Adopt an	official	seal;					
25	(2) Sue and I	be sued;						
26	(3) Execute of	contracts	and other necessary instruments;					
27 28	(4) Hold, but investments consistent with its		ll instruments, obligations, securities, and other nensive investment plan;					
	(5) Enter into agreements with eligible institutions of higher education and other public or private entities for the promotion, administration, or marketing of the Program, THE TRUST or the Plan;							
32	(6) Invest fu	nds not r	equired for immediate disbursement;					

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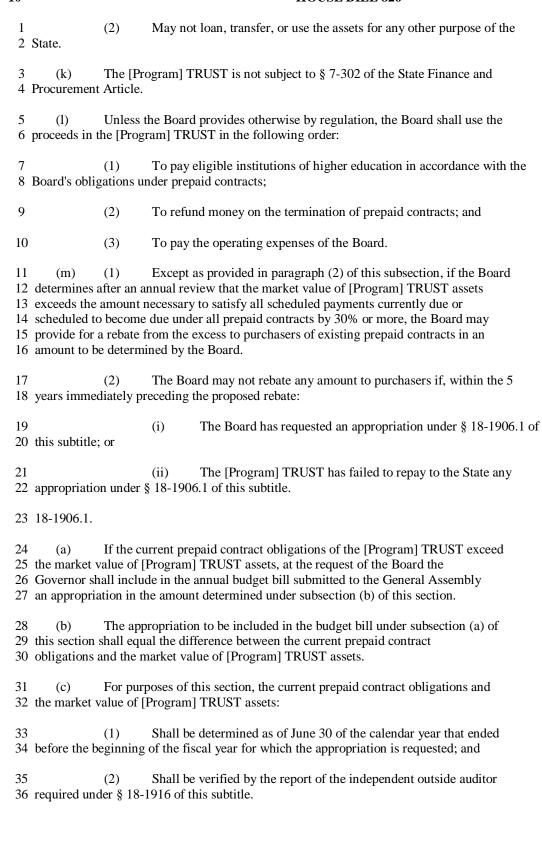
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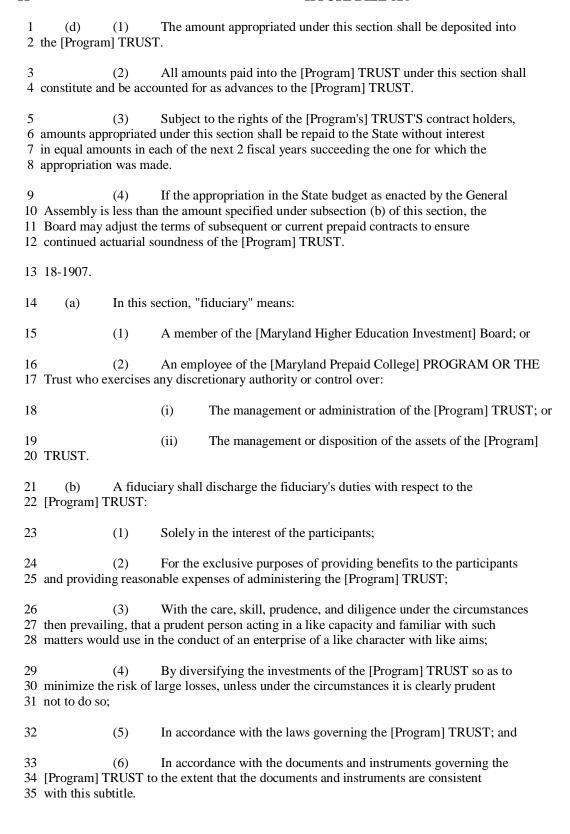
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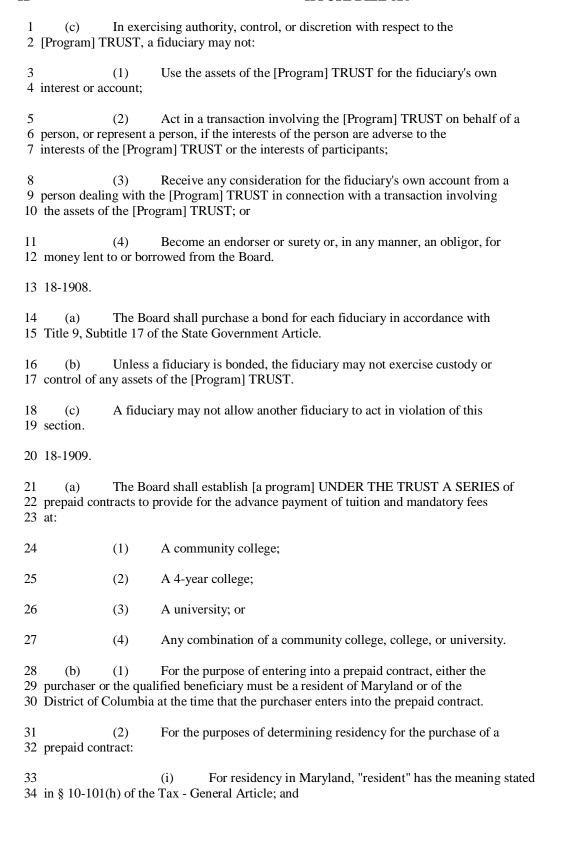
Solicit and accept gifts, grants, loans, or other aid from any source or

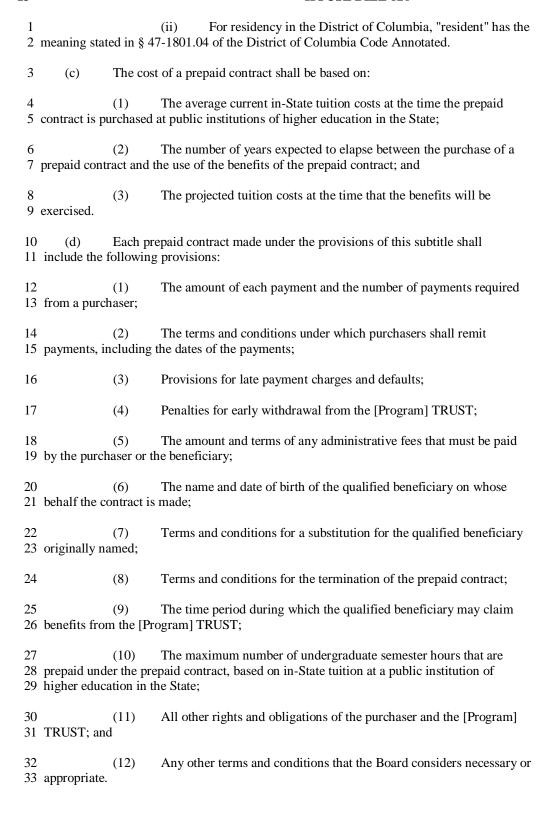
	participate in any government program for purposes consistent with this subtitle and Subtitle 19A of this title;							
		Subject to the review of the General Assembly, impose and collect ative fees for any transactions UNDER THE TRUST OR THE PLAN d contracts or transactions affecting the Program or the Plan;						
7 8	(9) TRUST or the Plan;	Procure insurance against any loss of assets of the Program, THE						
	(10) protecting [a prepaid contract;]:	Endorse insurance coverage written exclusively for the purpose of contract and the purchaser and qualified beneficiary of the						
12 13	PURCHASER AND	(I) A PREPAID CONTRACT UNDER THE TRUST AND THE THE QUALIFIED BENEFICIARY OF THE CONTRACT; OR						
		(II) AN INVESTMENT ACCOUNT UNDER THE PLAN AND THE ER AND QUALIFIED DESIGNATED BENEFICIARY OF THE COUNT.						
17 18	(11) TRUST, Program or	Designate terms under which money may be withdrawn from the the Plan;						
	(12) participation in and t Plan;	Establish additional procedural and substantive requirements for he administration or marketing of the TRUST, Program or the						
22 23	(13) or other government	Appear on the Board's own behalf before other boards, commissions, al agencies; and						
24 25	(14) implement and admi	Take any other action that the Board considers appropriate to nister the TRUST, Program or the Plan.						
26	18 1905.1.							
	PROGRAMS AS TI	OARD MAY CREATE ADDITIONAL QUALIFIED STATE TUITION IE BOARD DETERMINES TO BE NECESSARY OR CONVENIENT TO PURPOSES OF THIS SUBTITLE AND SUBTITLE 19A OF THIS TITLE.						
	TUITION PROGRA	OARD SHALL ADMINISTER ANY ADDITIONAL QUALIFIED STATE MS IN COMPLIANCE WITH INTERNAL REVENUE SERVICE QUALIFIED STATE TUITION PROGRAMS.						
35	QUALIFIED STAT	OARD SHALL ADOPT PROCEDURES FOR ANY ADDITIONAL E TUITION PROGRAMS THAT THE BOARD CONSIDERS NECESSARY TO PROVISIONS OF THIS SUBTITLE OR SUBTITLE 19A OF THIS TITLE, AS						

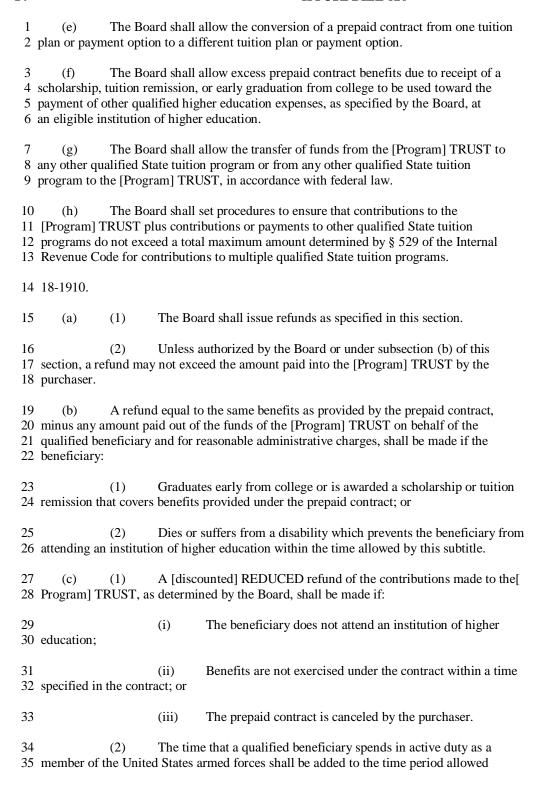
- 1 18-1906.
- 2 (a) The Board shall adopt a comprehensive investment plan for the 3 administration of the [Program] TRUST.
- 4 (b) The plan shall specify the investment policies used by the Board in the 5 administration of the [Program] TRUST.
- 6 (c) Assets of the [Program] TRUST shall be invested 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

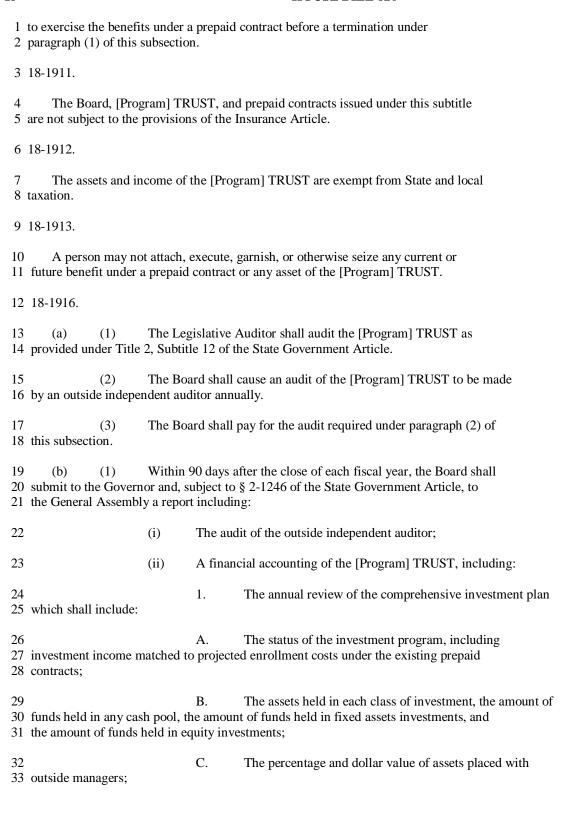












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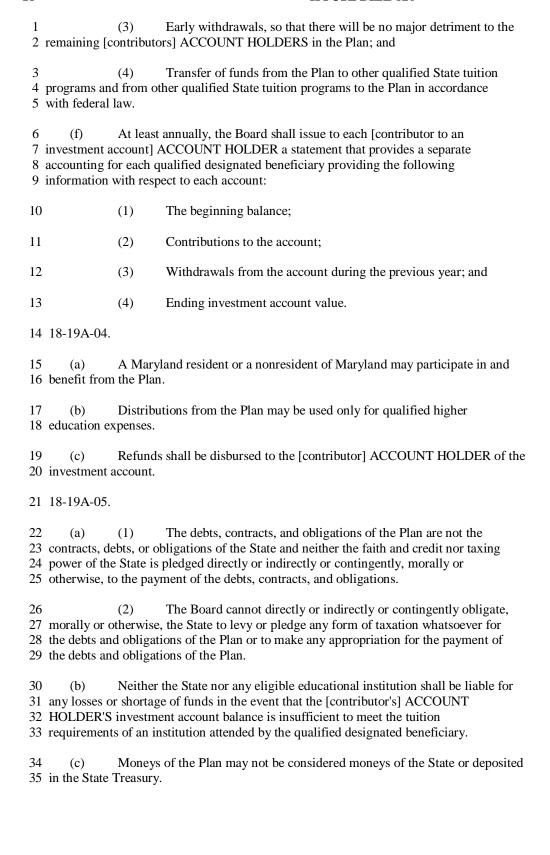
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1	D.	The income produced by each class of investment; and				
2	E.	The income produced by each investment manager; and				
2. A detailed account of the operating and administrative budget for the [Program] TRUST, which shall include a complete list of revenue 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) 16 previous fiscal year;	The nu	mber of prepaid contracts entered into during the				
17 (iv) 18 prepaid contracts; and	Efforts	by the Board in marketing the [Program] TRUST of				
19 (v) 20 the [Program] TRUST.	Any red	commendations of the Board concerning the operation of				
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.						

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 (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.	18-19A-05.1.							
THE BOARD, PLAN, AND INVESTMENT ACCOUNTS ISSUED UNDER THIS 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 Box 10 providers.	•							
11 (b) (1) Within 90 days after the close of each fiscal year, the Board shall 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 finan	icial 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 19 outside managers;	C.	The percentage and dollar value of assets placed with						
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;						

Unless otherwise provided by law, a custodian shall deny inspection of a

31 education investment] PREPAID contract under Title 18, Subtitle 19 of the Education

Subject to paragraph (2) of this subsection, a custodian shall deny

the name of a purchaser or qualified beneficiary of a [higher

26

28

30

32 Article; AND

27 public record, as provided in this section.

(I)

(1) 29 inspection of any record disclosing:

	DESIGNATED BENE SUBTITLE 19A OF T	EFICIARY	Y OF AN		TMENT.						
4	(2)	A custodi	ian:								
5		(i) s	shall per	mit inspe	ction by a	a person	in inter	est; and			
8	in a higher education is Maryland Higher Educ DESIGNATED:	nvestmen	t contrac		dance wi	th regula	ations of	f the		ed	
	QUALIFIED BENEF ARTICLE; OR			BY A PU TITLE 1							
13 14	BENEFICIARY UND			BY AN A							IATED
15 16		Chapter	110 of t		f 1997, a 2000	s amend	led by (Chapter	494 of	the Acts	of
19 20 21 22 23 24	SECTION 5. ANI marketing efforts unde COLLEGE SAVINGS College Trust AND T disclosure that the corguarantee that the earn PLAN will generate the contract] THE QUAL time of enrollment.	ertaken by S PLANS THE MAR atract ente nings of the he differer	y the [M OF MA YLAND ered into he assets nce betw	aryland HARYLANI COLLE under the invested ween the p	ligher Ed D Board to GE INVI provision in the [P: rojected to	ucation I to marke ESTMEN ons of thi rogram] costs of	Investment the Mannet the Mannet TPLA s Act do TRUST	ent] aryland l N must i Des not OR TH under th	include E e	full	
26 27		Chapter	111 of t		f 1997, a 2000	s amend	led by (Chapter	494 of	the Acts	of
30 31 32 33 34 35	SECTION 5. ANI marketing efforts unde COLLEGE SAVINGS College Trust AND T disclosure that the corguarantee that the earn PLAN will generate the contract] THE QUAL time of enrollment.	ertaken by S PLANS THE MAR atract ente nings of the he differer	y the [M OF MA YLAND ered into the assets nce betw	aryland HAYLANI COLLE under the invested ween the p	ligher Ed D Board to GE INVI provision in the [P: rojected of	ucation I to marke ESTMEN ons of thi rogram] costs of	Investment the Mannet the Mannet TPLA s Act do TRUST	ent] aryland I N must i Des not OR TH under th	include E e	full	
	SECTION 2. ANI construed and applied accounts opened prior	to affect	all prepa	aid contra	cts purch						

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