

SENATE BILL 499

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HB 826/02 - APP

2003 Regular Session
3lr2178
CF HB 30

By: **Senators Hogan and Kasemeyer**

Introduced and read first time: January 31, 2003

Assigned to: Budget and Taxation and Education, Health, and Environmental Affairs

A BILL ENTITLED

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
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; providing for the application of this Act; and generally relating to
17 the College Savings Plans of Maryland.

18 BY repealing and reenacting, with amendments,
19 Article - Education
20 Section 18-1901, 18-1903 through 18-1906.1, 18-1907 through 18-1913,
21 18-1916, 18-19A-01, 18-19A-02, 18-19A-04, 18-19A-05, and 18-19A-07
22 Annotated Code of Maryland
23 (2001 Replacement Volume and 2002 Supplement)

24 BY adding to
25 Article - Education
26 Section 18-1902.1, 18-1905.1, 18-19A-05.1, and 18-19A-06.1
27 Annotated Code of Maryland
28 (2001 Replacement Volume and 2002 Supplement)

29 BY repealing and reenacting, without amendments,
30 Article - State Government
31 Section 10-616(a)

1 Annotated Code of Maryland
2 (1999 Replacement Volume and 2002 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - State Government
5 Section 10-616(n)
6 Annotated Code of Maryland
7 (1999 Replacement Volume and 2002 Supplement)

8 BY repealing and reenacting, with amendments,
9 Chapter 110 of the Acts of the General Assembly of 1997, as amended by
10 Chapter 494 of the Acts of the General Assembly of 2000
11 Section 5

12 BY repealing and reenacting, with amendments,
13 Chapter 111 of the Acts of the General Assembly of 1997, as amended by
14 Chapter 494 of the Acts of the General Assembly of 2000
15 Section 5

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

18 **Article - Education**

19 18-1901.

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

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

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

25 (d) "Eligible institution of higher education" means an institution of higher
26 education that:

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

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

29 (e) "Prepaid contract" means a contract between the Board and [a purchaser]
30 AN ACCOUNT HOLDER under the provisions of this subtitle for the advance payment
31 of qualified higher education expenses by the [purchaser] ACCOUNT HOLDER for a
32 qualified beneficiary to attend an eligible institution of higher education, if the
33 qualified beneficiary is admitted to the institution.

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

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

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

8 (i) ["Purchaser"] "ACCOUNT HOLDER" means an individual who:

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

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

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

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

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

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

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

25 (m) "TRUST" MEANS THE MARYLAND PREPAID COLLEGE TRUST ESTABLISHED
26 UNDER THIS SUBTITLE.

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

30 18-1902.1.

31 (A) THERE IS A PROGRAM ENTITLED THE COLLEGE SAVINGS PLANS OF
32 MARYLAND.

33 (B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE FOR THE
34 ADMINISTRATION BY THE BOARD OF THE MARYLAND PREPAID COLLEGE TRUST AND
35 THE MARYLAND COLLEGE INVESTMENT PLAN AND ANY OTHER QUALIFIED STATE

1 TUITION PROGRAM ESTABLISHED BY THE BOARD IN ACCORDANCE WITH § 18-1905.1
2 OF THIS SUBTITLE.

3 18-1903.

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

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

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

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

13 (c) THE BOARD SHALL ADMINISTER THE TRUST IN COMPLIANCE WITH
14 INTERNAL REVENUE SERVICE STANDARDS FOR QUALIFIED STATE TUITION
15 PROGRAMS.

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

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

19 (2) Bequests, endowments, or funds from any other available private
20 source;

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

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

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

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

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

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

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

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

9 18-1904.

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

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

13 (1) The Maryland Prepaid College Trust established under this subtitle;
14 and

15 (2) The Maryland College Investment Plan established under Subtitle
16 19A of this title[.]; AND

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

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

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

21 (2) The State Superintendent of Schools;

22 (3) The State Treasurer;

23 (4) The State Comptroller; [and]

24 (5) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND; AND

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

28 (d) A MEMBER OF THE BOARD DESIGNATED UNDER SUBSECTION (C)(1)
29 THROUGH (4) OF THIS SECTION MAY DESIGNATE AN EMPLOYEE FROM THE
30 MEMBER'S STAFF TO REPRESENT THE MEMBER OF THE BOARD, WITH THE FULL
31 VOTING RIGHTS, POWERS, AND DUTIES OF THE MEMBER.

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

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

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

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

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

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

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

12 18-1905.

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

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

16 (c) A member of the Board:

17 (1) May not receive compensation;

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

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

22 (d) (1) The Board:

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

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

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

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

1 OR involving prepaid contracts or transactions affecting the Program, THE TRUST, or
2 the Plan;

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

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

8 (I) A PREPAID CONTRACT UNDER THE TRUST AND THE ACCOUNT
9 HOLDER AND THE QUALIFIED BENEFICIARY OF THE CONTRACT; OR

10 (II) AN INVESTMENT ACCOUNT UNDER THE PLAN AND THE
11 ACCOUNT HOLDER AND QUALIFIED DESIGNATED BENEFICIARY OF THE
12 INVESTMENT ACCOUNT.

13 (11) Designate terms under which money may be withdrawn from the
14 Program, THE TRUST, or the Plan;

15 (12) Establish additional procedural and substantive requirements for
16 participation in and the administration or marketing of the Program, THE TRUST, or
17 the Plan;

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

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

22 18-1905.1.

23 (A) THE BOARD MAY CREATE ADDITIONAL QUALIFIED STATE TUITION
24 PROGRAMS FOR THE PURPOSE OF:

25 (1) PARTNERING WITH A PRIVATE COLLEGE TO ADMINISTER A PREPAID
26 TUITION PROGRAM;

27 (2) CREATING BROKER OR DEALER AGREEMENTS; AND

28 (3) PARTNERING WITH A RETAIL BUSINESS TO OFFER TUITION
29 PROGRAMS TO THE EMPLOYEES AND CUSTOMERS OF THE RETAIL BUSINESS.

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 DESCRIBED UNDER SUBSECTION (A) OF THIS
35 SECTION THAT THE BOARD CONSIDERS NECESSARY TO CARRY OUT THE PROVISIONS
36 OF THIS SUBTITLE OR SUBTITLE 19A OF THIS TITLE.

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] ACCOUNT HOLDERS of existing
16 prepaid contracts in an amount to be determined by the Board.

17 (2) The Board may not rebate any amount to [purchasers] ACCOUNT
18 HOLDERS if, within the 5 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 of] prepaid contracts UNDER THE
22 TRUST to provide for the advance payment of tuition and mandatory fees at:

23 (1) A community college;

24 (2) A 4-year college;

25 (3) A university; or

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

27 (b) (1) For the purpose of entering into a prepaid contract, either the
28 [purchaser] ACCOUNT HOLDER or the qualified beneficiary must be a resident of
29 Maryland or of the District of Columbia at the time that the [purchaser] ACCOUNT
30 HOLDER 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] AN ACCOUNT HOLDER;

14 (2) The terms and conditions under which [purchasers] ACCOUNT
15 HOLDERS shall remit 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] ACCOUNT HOLDER 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] ACCOUNT
31 HOLDER and the [Program] 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] ACCOUNT HOLDER.

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
28 [Program] 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] ACCOUNT
34 HOLDER.

35 (2) The time that a qualified beneficiary spends in active duty as a
36 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] ACCOUNT
22 HOLDER a copy of a summary of the report and the option to purchase the full report
23 at a nominal charge.

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

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

1 18-19A-01.

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

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

5 (C) "Board" means the [Maryland Higher Education Investment] COLLEGE
6 SAVINGS PLANS OF MARYLAND Board established under § 18-1904 of this title.

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

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

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

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

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

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

21 (i) "Plan" means the Maryland College Investment Plan established under
22 this subtitle.

23 18-19A-02.

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

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

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

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

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

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

- 1 (1) Application procedures for participation in the Plan;
- 2 (2) Start-up costs incurred by the State for the development of the Plan
3 with these costs to be reimbursed to the State by the Plan;
- 4 (3) Early withdrawals, so that there will be no major detriment to the
5 remaining [contributors] ACCOUNT HOLDERS in the Plan; and
- 6 (4) Transfer of funds from the Plan to other qualified State tuition
7 programs and from other qualified State tuition programs to the Plan in accordance
8 with federal law.

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

- 13 (1) The beginning balance;
- 14 (2) Contributions to the account;
- 15 (3) Withdrawals from the account during the previous year; and
- 16 (4) Ending investment account value.

17 18-19A-04.

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

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

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

24 18-19A-05.

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

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

33 (b) Neither the State nor any eligible educational institution shall be liable for
34 any losses or shortage of funds in the event that the [contributor's] ACCOUNT

1 HOLDER'S investment account balance is insufficient to meet the tuition
2 requirements of an institution attended by the qualified designated beneficiary.

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

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

7 18-19A-05.1.

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

10 18-19A-06.1.

11 A PERSON MAY NOT ATTACH, EXECUTE, GARNISH, OR OTHERWISE SEIZE ANY
12 CURRENT OR FUTURE BENEFIT UNDER AN INVESTMENT ACCOUNT OR ANY ASSET OF
13 THE PLAN.

14 18-19A-07.

15 (a) (1) The Legislative Auditor shall audit the Plan as provided under Title
16 2, Subtitle 12 of the State Government Article.

17 (2) The Board shall obtain an annual audit report from service
18 providers.

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) A financial accounting of the Plan, including:

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

24 A. The status of the investment program;

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

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

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

29 E. The income produced by each investment manager;

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

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

1

Article - State Government

2 10-616.

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

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

7 (I) the name of [a purchaser] AN ACCOUNT HOLDER or qualified
8 beneficiary of a [higher education investment] PREPAID contract under Title 18,
9 Subtitle 19 of the Education Article; AND

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

13 (2) A custodian:

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

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

19 1. BY AN ACCOUNT HOLDER OF A PREPAID CONTRACT OR
20 QUALIFIED BENEFICIARY UNDER TITLE 18, SUBTITLE 19A OF THE EDUCATION
21 ARTICLE; OR

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

24 **Chapter 110 of the Acts of 1997, as amended by Chapter 494 of the Acts of**
25 **2000**

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

1 **Chapter 111 of the Acts of 1997, as amended by Chapter 494 of the Acts of**
2 **2000**

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

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
13 construed to apply to all prepaid contracts purchased and investment accounts
14 opened before the effective date of this Act.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect July 1, 2003.