

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 351 (Delegate Malone)
 Ways and Means

**Income Tax – Subtraction Modification for Qualified Higher Education Expenses
 – Annual Limitation**

This bill expands the existing Maryland Prepaid College Trust and Maryland College Investment Plan income tax subtraction modifications by increasing from \$2,500 to \$5,000 the maximum value of the subtraction modifications. **The bill takes effect July 1, 2021, and applies to tax year 2021 and beyond.**

Fiscal Summary

State Effect: General fund revenues decrease by \$18.5 million in FY 2022 as a result of additional subtraction modifications claimed against the personal income tax. Future year revenues reflect the estimated amount of eligible contributions. Expenditures are not affected.

(\$ in millions)	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
GF Revenue	(\$18.5)	(\$19.0)	(\$19.4)	(\$19.9)	(\$20.3)
Expenditure	0	0	0	0	0
Net Effect	(\$18.5)	(\$19.0)	(\$19.4)	(\$19.9)	(\$20.3)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local revenues decrease by \$10.9 million in FY 2022 and by \$12.0 million in FY 2026. Local expenditures are not affected.

Small Business Effect: None.

Analysis

Current Law:

Maryland 529 Plans

Qualified tuition plans, also known as 529 plans, are State programs that allow an individual to either prepay or contribute to an account established for paying a student's qualified education expenses at an eligible educational institution. The College Savings Plans of Maryland Board currently operates two qualified tuition plans: the Maryland Prepaid College Trust; and the Maryland College Investment Plan. Chapter 548 of 2008 authorized the board to establish a third plan, the Maryland Broker-Dealer College Investment Plan, but the board has yet to do so.

The federal Tax Cuts and Jobs Act of 2017 (Public Law 115-97) was signed into law on December 22, 2017, and expands the permissible use of 529 plans by amending "qualified higher education expense" to include expenses for tuition in connection with enrollment or attendance at an elementary or secondary public, private, or religious school. An account holder can withdraw up to \$10,000 in each year for expenses associated with enrollment at these schools. The federal Act applies to distributions made after December 31, 2017.

State Subtraction Modification

A person may claim a subtraction modification for the advanced amount of tuition payments made to the Maryland Prepaid College Trust or amount contributed to the Maryland College Investment Plan. The subtraction modification claimed by a taxpayer may not exceed \$2,500 for each contract purchased (Maryland Prepaid College Trust) or \$2,500 per beneficiary (Maryland College Investment Plan). This limitation is increased to \$5,000 for married individuals who file jointly.

Any unused amount of the subtraction modification can be carried forward to future tax years until the full amount of the excess is used under the Maryland Prepaid College Trust and up to 10 tax years for contributions to the Maryland College Investment Plan.

An investment plan account holder is not eligible for the subtraction modification for contributions to an investment account in any year in which the account holder receives funds under the State Contribution Program.

State Revenues: Beginning in tax year 2021 the bill expands from \$2,500 to \$5,000 the maximum value of the college savings plan and Maryland Prepaid College Trust income tax subtraction modifications. As a result, general fund revenues may decrease by an

estimated \$18.5 million in fiscal 2022. **Exhibit 1** shows the projected State and local revenue loss from increasing the maximum value of the subtraction modifications.

Exhibit 1
Projected State and Local Revenue Loss
(\$ in Millions)

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>
State	(\$18.5)	(\$19.0)	(\$19.4)	(\$19.9)	(\$20.3)
Local	(10.9)	(11.2)	(11.4)	(11.7)	(12.0)
Total	(\$29.5)	(\$30.2)	(\$30.8)	(\$31.6)	(\$32.3)

The estimated revenue loss due to the increased college savings plan subtraction modification reflects the estimated impact of recent federal legislation that expands 529 eligibility to certain K-12 schools.

Local Revenues: Local income tax revenues decrease by about 3% of the total net State subtraction modifications claimed. Local revenues will decrease by \$10.9 million in fiscal 2022 and by \$12.0 million in fiscal 2026, as shown in Exhibit 1.

Additional Information

Prior Introductions: HB 902 of 2019 received a hearing in the House Ways and Means Committee, but no further action was taken.

Cross File: None.

Information Source(s): Comptroller's Office; Department of Legislative Services

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