

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 411

(Senator Elfreth)

Education, Health, and Environmental Affairs

Appropriations

**Maryland Senator Edward J. Kasemeyer College Investment Plan – State
Matching Contribution – Age of Account Holder**

This bill requires that the account holder of an Edward J. Kasemeyer College Investment Plan be at least 18 years old for applications filed on or after January 1, 2022. The bill must be construed to apply retroactively and must be applied to and interpreted to affect any application filed on or after January 1, 2022. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: General fund expenditures likely decrease beginning FY 2023; however, the reduction depends on the extent to which new account holder requirements restrict total State contributions, as discussed below. State agencies can implement the bill's changes with existing resources. State revenues are not materially affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: The Maryland 529 Board currently operates two qualified tuition plans: a prepaid plan and an investment plan. State income tax deductions are available independently for both plans, generally for up to \$2,500 per year. Investment accounts established after December 31, 2016, are also eligible for a State matching contribution under specified conditions, as described below. An investment account holder may not claim an income tax deduction in the same year that a State match is received.

Generally, funds in the plans may only be used for qualified education expenses, which historically meant certain expenses related to higher education. However, under the federal Tax Cuts and Jobs Act of 2017, the investment plan may be used to pay for tuition expenses at K-12 public, private, and parochial schools.

State Matching Contributions

For 529 investment accounts established after December 31, 2016, a State contribution of \$250 or \$500, depending on income, may be made to an investment account if:

- the *qualified beneficiary* of the investment account is a Maryland resident younger than age 26 in the calendar year before the account holder submits an application;
- the account holder (for example, a parent) is also a resident of Maryland and files income taxes on or before July 15 of each year;
- the account holder submits an application to the 529 board or its designee between January 1 and June 1 of each year; and
- the account holder has Maryland adjusted gross income in the previous taxable year no greater than \$112,500 for an individual or \$175,000 for a married couple filing a joint return.

A minimum amount of funds must be deposited into the investment account by the account holder in order to receive a State match, which is received by the end of the calendar year. Minimum contributions increase with income as the State match decreases. Chapter 538 of 2020 limited a qualified beneficiary to two State matching contributions per year beginning for application periods after December 31, 2020. Chapters 435 and 436 of 2021 established a \$9,000 cap on the State contribution amount received over the lifetime of an account holder.

The Governor must provide at least \$3.0 million each fiscal year for matching contributions. If the amount of funding is insufficient to fully fund all contributions, the 529 board must prioritize awards based on the order in which the applications are received and for account holders who did not receive a contribution in any prior year.

State Expenditures: Since fiscal 2019, the cost to fund eligible applications has exceeded the \$3.0 million mandated appropriation for State matching contributions. In fiscal 2021, a total of \$12.5 million was budgeted to fully fund eligible applications; the fiscal 2022 budget includes \$11.1 million; and the Governor's proposed fiscal 2023 budget includes just under \$11.0 million. Although not required, since the program began (in fiscal 2018), it has provided a match for all eligible applicants and, if demand exceeded appropriated funding in a fiscal year, a deficiency appropriation was provided.

In calendar 2021, there was an 800% increase in the number of custodial accounts (accounts where the holder is younger than age 18) opened and applying for participation in the State Contribution Program. Specifically, in calendar 2021, 324 account holders younger than age 18 applied for the State Contribution Program, and 257 of those account holders received a contribution from the State. Such contributions totaled around \$128,250 in calendar 2021. Under the bill, these accounts would be ineligible to apply for State matching contributions. Therefore, State expenditures likely decrease a commensurate amount beginning in fiscal 2023. Although the bill must retroactively apply to any application filed on or after January 1, 2022 (fiscal 2022), matching funds for applications filed from January 1, 2022, through June 30, 2022, will be paid in December 2022 (fiscal 2023). The exact amount of the decrease in future years is dependent on the total number of custodial accounts that would have received State matches at the end of each fiscal year, which cannot be reliably estimated given the sudden growth in such accounts.

Additional Information

Prior Introductions: None.

Designated Cross File: HB 444 (Delegate Forbes) - Appropriations.

Information Source(s): Department of Budget and Management; Comptroller's Office; College Savings Plans of Maryland; Department of Legislative Services

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