

SENATE BILL 959

F2, P1

EMERGENCY BILL
ENROLLED BILL

(3lr3115)

— *Budget and Taxation and Education, Energy, and the Environment/Appropriations*

Introduced by **Senators Benson, Klausmeier, Hester, Hayes, Hettleman, McKay, Beidle, Elfreth, King, Feldman, Rosapepe, Zucker, Hershey, Bailey, Kramer, and ~~Muse~~ Muse, Corderman, Guzzone, Jackson, Jennings, McCray, and Salling**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Higher Education – Maryland 529 Program – Reform**

3 FOR the purpose of abolishing and repealing the Maryland 529 Board; specifying that the
4 State Treasurer is the successor to the Maryland 529 Board; transferring to the
5 Office of the State Treasurer the responsibility for administering the Maryland 529
6 Program, including the Maryland Prepaid College Trust, the Maryland College
7 Investment Plan, the Maryland Broker–Dealer College Investment Plan, and the
8 Maryland ABLE Program; authorizing the State Treasurer to take certain actions in
9 administering the Maryland 529 Program; requiring the State Treasurer to take
10 certain actions in administering the Maryland 529 Program; prohibiting the State
11 Treasurer from taking certain actions in administering the Maryland Prepaid

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 College Trust; ~~establishing the Workgroup on the Maryland 529 Prepaid College~~
 2 ~~Trust Program; requiring the Workgroup to identify certain policies, procedures, and~~
 3 ~~practices and to develop recommendations relating to administering the Maryland~~
 4 ~~529 Program; establishing a process for making certain claims against the Maryland~~
 5 Prepaid College Trust; providing for the transfer of certain services, appropriations,
 6 funding, grants, property, records, fixtures, credits, assets, liabilities, obligations,
 7 rights, and privileges to the Office of the State Treasurer; providing that employees
 8 transferred to the Office of the State Treasurer as a result of this Act shall be
 9 transferred without diminution of certain rights, benefits, or employment or
 10 retirement status; providing for the continuity of certain transactions affected by or
 11 flowing from this Act; providing for the continuity of certain laws, rules and
 12 regulations, standards and guidelines, policies, orders, and other directives, permits
 13 and license applications, forms, plans, memberships, contracts, agreements,
 14 property, investigations, and administrative and judicial responsibilities; providing
 15 for the appropriate transitional provisions relating to the continuity of certain boards
 16 and other units; and generally relating to Maryland 529 Program reform.

17 BY repealing and reenacting, with amendments,

18 Article – Education

19 Section 18–1901, 18–1902.1, 18–1903 through 18–1905, 18–1905.1, 18–1906,
 20 18–1906.1, 18–1907 through 18–1911, 18–1914, 18–1916, 18–19A–01 through
 21 18–19A–03, 18–19A–04.1, 18–19A–05, 18–19A–05.1, 18–19A–07, 18–19B–01
 22 through 18–19B–06, 18–19B–08, 18–19C–01 through 18–19C–03, 18–19C–05,
 23 18–19C–06, 18–19C–08, and 18–19C–09

24 Annotated Code of Maryland
 25 (2022 Replacement Volume)

26 BY repealing and reenacting, without amendments,

27 Article – Education

28 Section 18–1902, 18–1912, 18–1913, 18–1915, 18–19A–04, 18–19A–06,
 29 18–19A–06.1, 18–19B–07, 18–19C–04, 18–19C–07, and 18–19C–10

30 Annotated Code of Maryland
 31 (2022 Replacement Volume)

32 BY adding to

33 Article – Education

34 Section 18–1917

35 Annotated Code of Maryland
 36 (2022 Replacement Volume)

37 BY repealing and reenacting, with amendments,

38 Article – State Finance and Procurement

39 Section 11–203(f)

40 Annotated Code of Maryland

41 (2021 Replacement Volume and 2022 Supplement)

42 ~~BY repealing and reenacting, with without amendments,~~

1 ~~Article – State Government~~
 2 ~~Section 9–803(a)(10) and (11)~~
 3 ~~Annotated Code of Maryland~~
 4 ~~(2021 Replacement Volume and 2022 Supplement)~~

5 ~~BY adding to~~
 6 ~~Article – State Government~~
 7 ~~Section 9–803(a)(11)~~
 8 ~~Annotated Code of Maryland~~
 9 ~~(2021 Replacement Volume and 2022 Supplement)~~

10 BY repealing and reenacting, with amendments,
 11 Article – State Government
 12 Section ~~9–803(a)(11)~~ 9–803(a)(10) and (11)
 13 Annotated Code of Maryland
 14 (2021 Replacement Volume and 2022 Supplement)

15 BY adding to
 16 Article – State Government
 17 Section 9–803(a)(11)
 18 Annotated Code of Maryland
 19 (2021 Replacement Volume and 2022 Supplement)

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

22 **Article – Education**

23 18–1901.

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

25 (b) “ABLE account holder” means an individual who has established an account
 26 described under § 529A(e) of the Internal Revenue Code and is the designated beneficiary
 27 of the account.

28 (c) “Account holder” means an individual who:

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

31 (2) Except as provided in § 18–1909(b) of this subtitle, is a resident of
 32 Maryland or of the District of Columbia at the time that the account holder enters into a
 33 prepaid contract.

34 (d) [“Board” means the Maryland 529 Board.

1 (e) “Broker–Dealer Plan” means the Maryland Broker–Dealer College
2 Investment Plan established under Subtitle 19B of this title.

3 [(f)] (E) “Current prepaid contract obligations” means the scheduled payments
4 due for the next fiscal year under existing prepaid contracts.

5 [(g)] (F) “Eligible institution of higher education” means an institution of higher
6 education that:

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

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

9 [(h)] (G) “Market value of program assets” means the amount of cash and cash
10 equivalents held by the Trust plus the fair market value of other assets of the Trust.

11 [(i)] (H) “Maryland ABLE Program” means the Maryland Achieving a Better
12 Life Experience Program established under Subtitle 19C of this title.

13 [(j)] (I) “Plan” means the Maryland Senator Edward J. Kasemeyer College
14 Investment Plan established under Subtitle 19A of this title.

15 [(k)] (J) “Prepaid contract” means a contract between the [Board] STATE
16 TREASURER and an account holder under the provisions of this subtitle for the advance
17 payment of qualified higher education expenses by the account holder for a qualified
18 beneficiary to attend an eligible institution of higher education, if the qualified beneficiary
19 is admitted to the institution.

20 [(l)] (K) “Program” means Maryland 529.

21 [(m)] (L) “Qualified beneficiary” means an individual who:

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

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

28 [(n)] (M) “Qualified higher education expenses” has the meaning stated in § 529
29 of the Internal Revenue Code.

30 [(o)] (N) “Qualified state tuition program” has the meaning stated in § 529 of the
31 Internal Revenue Code.

1 [(p)] (O) “Trust” means the Maryland Senator Edward J. Kasemeyer Prepaid
2 College Trust established under this subtitle.

3 [(q)] (P) (1) “Tuition” means the actual tuition and mandatory fees assessed
4 to all students by an eligible institution of higher education as a condition of enrollment at
5 the institution.

6 (2) “Tuition” does not include any fee that is assessed by the institution for
7 a particular course taken, year of enrollment, academic status, course of study, residency
8 status, or any other distinguishing factor used by the institution to determine a specific fee.

9 18–1902.

10 It is the intent of the General Assembly to enhance the accessibility and affordability
11 of higher education for all citizens of the State and for all citizens of the District of Columbia
12 by establishing a method to provide for the prepayment of tuition at eligible institutions of
13 higher education.

14 18–1902.1.

15 (a) There is a Program entitled Maryland 529.

16 (b) The purpose of the Program is to provide for the administration by the [Board]
17 **STATE TREASURER** of the Maryland Senator Edward J. Kasemeyer Prepaid College
18 Trust, the Maryland Senator Edward J. Kasemeyer College Investment Plan, the Maryland
19 Broker–Dealer College Investment Plan, and the Maryland ABLE Program.

20 18–1903.

21 (a) There is a Maryland Senator Edward J. Kasemeyer Prepaid College Trust.

22 (b) The purpose of the Trust is to provide:

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

25 (2) An assurance to a beneficiary who enrolls at an eligible institution of
26 higher education that the [Board] **STATE TREASURER** shall make every effort to invest
27 the advance payments so that the prepaid contract will cover the average in–State tuition
28 costs at public institutions of higher education in the State at the time that the benefits are
29 exercised.

30 (c) The [Board] **STATE TREASURER** shall administer the Trust in compliance
31 with Internal Revenue Service standards for qualified ~~State~~ **STATE** tuition programs.

32 (d) The funds of the Trust consist of:

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

3 (2) Bequests, endowments, or funds from any other available private
4 source;

5 (3) Interest and income earned from the investments of the Trust; and

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

8 (e) Money remaining in the Trust at the end of the fiscal year shall remain in the
9 Trust and may not revert to the General Fund of the State.

10 (f) Money of the Trust may not be considered money of the State and may not be
11 deposited into the Treasury.

12 (g) Money of the Trust may not be considered money of the Maryland Senator
13 Edward J. Kasemeyer College Investment Plan and may not be commingled with the Plan.

14 (h) Money of the Trust may not be considered money of or be commingled with
15 the Maryland Broker–Dealer College Investment Plan.

16 (i) Money of the Trust may not be considered money of or be commingled with
17 the Maryland ABLE Program.

18 (j) (1) The debts, contracts, and obligations of the Trust are not the contracts,
19 debts, or obligations of the State and neither the faith and credit nor taxing power of the
20 State is pledged directly or indirectly or contingently, morally or otherwise, to the payment
21 of the debts, contracts, and obligations.

22 (2) The **[Board] STATE TREASURER** cannot directly or indirectly or
23 contingently obligate, morally or otherwise, the State to levy or pledge any form of taxation
24 whatsoever for the debts and obligations of the Trust or to make any appropriation for the
25 payment of the debts and obligations of the Trust.

26 (k) Neither the State nor any eligible institution of higher education shall be
27 liable for any losses or shortage of funds in the event that the Maryland Senator Edward
28 J. Kasemeyer Prepaid College Trust is insufficient to meet the tuition requirements of an
29 institution attended by the qualified beneficiary.

30 18–1904.

31 [(a) There is a Maryland 529 Board.

1 (b)] The [Board] **STATE TREASURER** shall administer:

2 (1) The Maryland Senator Edward J. Kasemeyer Prepaid College Trust
3 established under this subtitle;

4 (2) The Maryland Senator Edward J. Kasemeyer College Investment Plan
5 established under Subtitle 19A of this title;

6 (3) The Maryland Broker–Dealer College Investment Plan established
7 under Subtitle 19B of this title; and

8 (4) The Maryland ABLE Program established under Subtitle 19C of this
9 title.

10 [(c) The Board consists of the following members:

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

12 (2) The State Superintendent of Schools;

13 (3) The State Treasurer;

14 (4) The State Comptroller;

15 (5) The Chancellor of the University System of Maryland;

16 (6) The Secretary of Disabilities; and

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

20 (d) A member of the Board designated under subsection (c)(1) through (6) of this
21 section may designate an employee from the member’s staff to represent the member of the
22 Board, with the full voting rights, powers, and duties of the member.

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

25 (f) (1) Except for the terms of the initial members of the Board, the term of a
26 public member of the Board is 4 years.

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

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

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

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

4 (g) The Governor may remove a public member for incompetence or misconduct.]
5 18–1905.

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

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

9 (c) A member of the Board:

10 (1) May not receive compensation;

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

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

15 (d) (1) The [Board] **STATE TREASURER:**

16 (i) Shall appoint a **DEPUTY TREASURER TO ADMINISTER THE**
17 ~~Program executive director who is in the executive service of the State Personnel~~
18 ~~Management System;~~ and

19 (ii) May employ additional **PROGRAM** staff in accordance with the
20 budget.

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

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

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

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

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

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

8 2. Requires the exercise of discretion and independent
9 judgment; and

10 3. Is not in the executive service.

11 (3) The [Board] **STATE TREASURER** may retain the services of
12 consultants, administrators, and other personnel, as necessary, to administer the Trust,
13 the Plan, the Broker–Dealer Plan, or the Maryland ABLE Program.

14 (4) The budget for the Program[, the Board,] and [its] staff [is] **RETAINED**
15 **BY THE STATE TREASURER TO ADMINISTER THE PROGRAM ARE** subject to review by
16 the General Assembly for information purposes only.

17 [(e)] **(B)** The [Board] **STATE TREASURER** may adopt any regulations that the
18 [Board] **STATE TREASURER** considers necessary to carry out the provisions of this subtitle
19 or Subtitle 19A, Subtitle 19B, or Subtitle 19C of this title.

20 [(f)] **(C)** In [addition] **ADMINISTERING THE PROGRAM**, the [Board] **STATE**
21 **TREASURER** may:

22 (1) [Adopt an official seal] ~~**ADMINISTER OATHS, TAKE TESTIMONY, AND**~~
23 ~~**SUBPOENA WITNESSES AND BOOKS, RECORDS, AND OTHER DOCUMENTS;**~~

24 ~~(2) Sue and be sued **FOR CAUSES OF ACTION RELATED TO THE**~~
25 ~~**ADMINISTRATION OF THE PROGRAM;**~~

26 ~~(3)~~ Execute contracts and other necessary instruments;

27 ~~(4)~~ **(2)** Hold, buy, and sell instruments, obligations, securities, and other
28 investments consistent with its comprehensive investment plan;

29 ~~(5)~~ **(3)** Enter into agreements with eligible institutions of higher
30 education and other public or private entities for the promotion, administration, or
31 marketing of the Program, the Trust, the Plan, the Broker–Dealer Plan, or the Maryland
32 ABLE Program;

1 ~~(6)~~ **(4)** Invest funds not required for immediate disbursement;

2 ~~(7)~~ **(5)** Solicit and accept gifts, grants, loans, or other aid from any
3 source or participate in any government program for purposes consistent with this subtitle
4 and Subtitles 19A, 19B, and 19C of this title;

5 ~~(8)~~ **(6)** Subject to the review of the General Assembly, impose, collect,
6 and distribute across Maryland 529 programs reasonable administrative fees for any
7 transactions under the Trust, the Plan, the Broker–Dealer Plan, or the Maryland ABLE
8 Program or involving prepaid contracts or transactions affecting the Program, the Trust,
9 the Plan, the Broker–Dealer Plan, or the Maryland ABLE Program;

10 ~~(9)~~ **(7)** Procure insurance against any loss of assets of the Program, the
11 Trust, the Plan, the Broker–Dealer Plan, or the Maryland ABLE Program;

12 ~~(10)~~ **(8)** Endorse insurance coverage written exclusively for the purpose
13 of protecting:

14 (i) A prepaid contract under the Trust and the account holder and
15 the qualified beneficiary of the contract;

16 (ii) An investment account under the Plan, or the Broker–Dealer
17 Plan, and the account holder and qualified designated beneficiary of the investment
18 account; or

19 (iii) An ABLE account under the Maryland ABLE Program and the
20 ABLE account holder;

21 ~~(11)~~ **(9)** Designate terms under which money may be withdrawn from the
22 Program, the Trust, the Plan, the Broker–Dealer Plan, or the Maryland ABLE Program;

23 ~~(12)~~ **(10)** Establish additional procedural and substantive requirements
24 for participation in and the administration or marketing of the Program, the Trust, the
25 Plan, the Broker–Dealer Plan, or the Maryland ABLE Program;

26 ~~(13)~~ **(11)** Appear ~~on the~~ [Board's] ~~STATE TREASURER'S~~ own behalf
27 before [other] boards, commissions, or other governmental agencies; and

28 ~~(14)~~ **(12)** Take any other action that the [Board] STATE TREASURER
29 considers appropriate to implement and administer the Program, the Trust, the Plan, the
30 Broker–Dealer Plan, or the Maryland ABLE Program.

31 **(D) THE STATE TREASURER MAY:**

32 **(1) DELEGATE, WHOLLY OR PARTLY, THE EXERCISE OF FIDUCIARY**
33 **DUTIES RELATED TO THE TRUST; AND**

1 **(2) CONTRACT FOR SUPPORT SERVICES NECESSARY TO CARRY OUT**
2 **THE STATE TREASURER'S FIDUCIARY DUTIES RELATED TO THE TRUST.**

3 18-1905.1.

4 (a) (1) The [Board] STATE TREASURER shall ~~develop and~~ implement a
5 marketing plan to increase participation in Maryland 529.

6 (2) (i) The marketing plan shall identify methods to increase general
7 participation in Maryland 529.

8 (ii) The [Board] STATE TREASURER shall coordinate with the
9 Board of Trustees of the Maryland Teachers and State Employees Supplemental
10 Retirement Plans and local school systems, respectively, to identify methods to increase
11 participation in Maryland 529 among:

12 1. State employees that participate in other State tax
13 savings programs; and

14 2. Families of students in local school systems with lower
15 rates of participation in Maryland 529 than the State population.

16 (b) On or before December 1, ~~2016~~ **2025**, and every 3 years thereafter, the
17 [Board] STATE TREASURER shall submit the marketing plan required under subsection
18 (a) of this section to the Governor and, in accordance with § 2-1257 of the State Government
19 Article, the Senate Budget and Taxation Committee, the Senate [Education, Health, and
20 Environmental Affairs] Committee **ON EDUCATION, ENERGY, AND THE**
21 **ENVIRONMENT**, the House Committee on Ways and Means, and the House Appropriations
22 Committee.

23 18-1906.

24 (a) The [Board] STATE TREASURER shall adopt a comprehensive investment
25 plan for the administration of the Trust.

26 (b) The plan shall specify the investment policies used by the [Board] STATE
27 TREASURER in the administration of the Trust.

28 (c) Assets of the Trust shall be invested in accordance with the comprehensive
29 investment plan.

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

1 (e) (1) Notwithstanding any law restricting the deposit or investment of State
2 money, the [Board] **STATE TREASURER** may place assets of the Trust in savings accounts
3 or may use the assets to purchase fixed or variable life insurance or annuity contracts,
4 securities, evidence of indebtedness, or other investment products pursuant to the
5 comprehensive investment plan.

6 (2) Any insurance, annuity contracts, savings, or other investment
7 products procured by the [Board] **STATE TREASURER** shall be underwritten and offered
8 in compliance with applicable federal and State laws.

9 (f) The [Board] **STATE TREASURER** shall make every effort to invest the assets
10 of the Trust in a manner that earns, at a minimum, sufficient earnings to generate the
11 difference between the prepaid amount under prepaid contracts and the average in-State
12 tuition costs at public institutions of higher education in the State at the time that the
13 benefits are exercised.

14 (g) The comprehensive investment plan shall provide for the Trust to be
15 administered in an actuarially sound manner to assure that the [Board] **STATE**
16 **TREASURER** may defray obligations of the Trust.

17 (h) The [Board] **STATE TREASURER** shall review the comprehensive investment
18 plan at least annually to assure that the Trust remains actuarially sound.

19 (i) The [Board] **STATE TREASURER** may contract with an investment advisory
20 or management company for the investment and management of the Trust as long as the
21 Trust is administered in accordance with the comprehensive investment plan.

22 (j) The [Board] **STATE TREASURER**:

23 (1) Shall preserve, invest, and expend the assets of the Trust solely for the
24 purposes of this subtitle; and

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

27 (k) The Trust is not subject to § 7-302 of the State Finance and Procurement
28 Article.

29 (l) Unless the [Board] **STATE TREASURER** provides otherwise by regulation,
30 the [Board] **STATE TREASURER** shall use the proceeds in the Trust in the following order:

31 (1) To pay eligible institutions of higher education in accordance with the
32 [Board's] **STATE TREASURER'S** obligations under prepaid contracts;

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

1 (3) To pay the operating expenses of the [Board] **STATE TREASURER IN**
2 **ADMINISTERING THE PROGRAM; AND**

3 (4) **TO MAKE PAYMENTS TO RESOLVE CLAIMS BROUGHT AGAINST THE**
4 **TRUST IN ACCORDANCE WITH § 18–1917 OF THIS SUBTITLE.**

5 (m) (1) Except as provided in paragraph (2) of this subsection, if the [Board]
6 **STATE TREASURER** determines after an annual review that the market value of Trust
7 assets exceeds the amount necessary to satisfy all scheduled payments currently due or
8 scheduled to become due under all prepaid contracts by 30% or more, the [Board] **STATE**
9 **TREASURER** may provide for a rebate from the excess to account holders of existing
10 prepaid contracts in an amount to be determined by the [Board] **STATE TREASURER**.

11 (2) The [Board] **STATE TREASURER** may not rebate any amount to
12 account holders if, within the 5 years immediately preceding the proposed rebate:

13 (i) The [Board] **STATE TREASURER** has requested an
14 appropriation under § 18–1906.1 of this subtitle; or

15 (ii) The Trust has failed to repay to the State any appropriation
16 under § 18–1906.1 of this subtitle.

17 18–1906.1.

18 (a) If the current prepaid contract obligations of the Trust exceed the market
19 value of Trust assets, at the request of the [Board] **STATE TREASURER**, the Governor
20 shall include in the annual budget bill submitted to the General Assembly an appropriation
21 in the amount determined under subsection (b) of this section.

22 (b) The appropriation to be included in the budget bill under subsection (a) of this
23 section shall equal the difference between the current prepaid contract obligations and the
24 market value of Trust assets.

25 (c) For purposes of this section, the current prepaid contract obligations and the
26 market value of Trust assets:

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

29 (2) Shall be verified by the report of the independent outside auditor
30 required under § 18–1916 of this subtitle.

31 (d) (1) The amount appropriated under this section shall be deposited into the
32 Trust.

1 (2) All amounts paid into the Trust under this section shall constitute and
2 be accounted for as advances to the Trust.

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

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

11 18–1907.

12 (a) In this section, “fiduciary” means:

13 (1) [A member of the Board] **THE STATE TREASURER; ~~or~~**

14 (2) An employee of the Program or the Trust who exercises any
15 discretionary authority or control over:

16 (i) The management or administration of the Trust; or

17 (ii) The management or disposition of the assets of the Trust; **OR**

18 **(3) AN INDIVIDUAL TO WHOM THE TREASURER HAS DELEGATED**
19 **FIDUCIARY DUTIES IN ACCORDANCE WITH § 18–1905 OF THIS SUBTITLE.**

20 (b) A fiduciary shall discharge the fiduciary's duties with respect to the Trust:

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

22 (2) For the exclusive purposes of providing benefits to the participants and
23 providing reasonable expenses of administering the Trust;

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

27 (4) By diversifying the investments of the Trust so as to minimize the risk
28 of large losses, unless under the circumstances it is clearly prudent not to do so;

29 (5) In accordance with the laws governing the Trust; and

1 (6) In accordance with the documents and instruments governing the Trust
2 to the extent that the documents and instruments are consistent with this subtitle.

3 (c) In exercising authority, control, or discretion with respect to the Trust, a
4 fiduciary may not:

5 (1) Use the assets of the Trust for the fiduciary's own interest or account;

6 (2) Act in a transaction involving the Trust on behalf of a person, or
7 represent a person, if the interests of the person are adverse to the interests of the Trust or
8 the interests of participants;

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

12 (4) Become an endorser or surety or, in any manner, an obligor, for money
13 lent to or borrowed from the [Board] STATE TREASURER.

14 18–1908.

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

17 (b) Unless a fiduciary is bonded, the fiduciary may not exercise custody or control
18 of any assets of the Trust.

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

20 18–1909.

21 (a) (1) [The Board shall] **ON OR AFTER JUNE 1, 2023, THE STATE**
22 **TREASURER MAY NOT** establish ANY NEW PREPAID CONTRACTS OR EXTEND OR
23 UPGRADE ANY EXISTING prepaid contracts under the Trust ~~to provide for the advance~~
24 ~~payment of tuition at:~~

25 ~~[(1)] (I) A community college;~~

26 ~~[(2)] (II) A 4-year college;~~

27 ~~[(3)] (III) A university; or~~

28 ~~[(4)] (IV) Any combination of a community college, college, or university.~~

29 (2) **ON OR AFTER JUNE 1, 2023, AN ACCOUNT HOLDER MAY NOT**
30 **ENTER INTO** ANY NEW PREPAID CONTRACTS OR EXTEND OR UPGRADE ANY EXISTING

1 ~~PREPAID CONTRACTS UNDER THE TRUST TO PROVIDE FOR THE ADVANCE PAYMENT~~
 2 ~~OF TUITION AT:~~

3 ~~(I) A COMMUNITY COLLEGE;~~

4 ~~(II) A 4-YEAR COLLEGE;~~

5 ~~(III) A UNIVERSITY; OR~~

6 ~~(IV) ANY COMBINATION OF A COMMUNITY COLLEGE, COLLEGE,~~
 7 ~~OR UNIVERSITY.~~

8 (b) (1) For the purpose of entering into a prepaid contract, either the account
 9 holder or the qualified beneficiary must be a resident of Maryland or of the District of
 10 Columbia at the time that the account holder enters into the prepaid contract.

11 (2) For the purposes of determining residency for the purchase of a prepaid
 12 contract:

13 (i) For residency in Maryland, “resident” has the meaning stated in
 14 § 10–101 of the Tax – General Article; and

15 (ii) For residency in the District of Columbia, “resident” has the
 16 meaning stated in § 47–1801.04 of the District of Columbia Code Annotated.

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

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

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

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

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

26 (1) The amount of each payment and the number of payments required
 27 from an account holder;

28 (2) The terms and conditions under which account holders shall remit
 29 payments, including the dates of the payments;

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

1 (4) Penalties for early withdrawal from the Trust;

2 (5) The amount and terms of any administrative fees that must be paid by
3 the account holder or the beneficiary;

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

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

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

9 (9) The time period during which the qualified beneficiary may claim
10 benefits from the Trust;

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

14 (11) All other rights and obligations of the account holder and the Trust; and

15 (12) Any other terms and conditions that the [Board] STATE TREASURER
16 considers necessary or appropriate.

17 (e) ~~The~~ **SUBJECT TO SUBSECTION (A) OF THIS SECTION, THE** [Board] STATE
18 **TREASURER** shall allow the conversion of a prepaid contract from one tuition plan or
19 payment option to a different tuition plan or payment option.

20 (f) The [Board] STATE TREASURER shall allow excess prepaid contract benefits
21 due to receipt of a scholarship, tuition remission, or early graduation from college to be used
22 toward the payment of other qualified higher education expenses, as specified by the
23 [Board] STATE TREASURER, at an eligible institution of higher education.

24 (g) **(1) ON OR AFTER JUNE 1, 2023, THE STATE TREASURER MAY ~~NOT~~**
25 **ONLY ALLOW THE TRANSFER OF FUNDS FROM ANY OTHER QUALIFIED STATE STATE**
26 **TUITION PROGRAM TO THE TRUST, IN ACCORDANCE WITH FEDERAL LAW, FOR THE**
27 **PURPOSE OF CONTRIBUTING FUNDS TOWARDS AN EXISTING CONTRACTUAL**
28 **OBLIGATION.**

29 **(2) ~~(1)~~ [The Board] ON OR BEFORE DECEMBER 31, 2024, THE THE**
30 **STATE TREASURER** shall allow the transfer of funds from the Trust to any other qualified
31 ~~State~~ **STATE** tuition program [or from any other qualified State tuition program to the
32 Trust], in accordance with federal law.

~~(H) SUBJECT TO SUBPARAGRAPH (H) OF THIS PARAGRAPH, THE STATE TREASURER SHALL GRANT AN INTEREST PAYMENT TO AN ACCOUNT HOLDER WHO, IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH, TRANSFERS FUNDS FROM THE TRUST TO THE PLAN.~~

~~(H) THE STATE TREASURER SHALL ADOPT REGULATIONS TO DETERMINE THE INTEREST RATE FOR PAYMENTS REQUIRED UNDER SUBPARAGRAPH (H) OF THIS PARAGRAPH.~~

~~(3) ON OR AFTER JANUARY 1, 2025, THE STATE TREASURER MAY NOT ALLOW THE TRANSFER OF FUNDS FROM THE TRUST TO ANY OTHER QUALIFIED STATE TUITION PROGRAM, IN ACCORDANCE WITH FEDERAL LAW.~~

(h) ~~The~~ NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE [Board] STATE TREASURER shall allow the transfer of funds from the Trust to any qualified ABLE program established in accordance with § 529A of the Internal Revenue Code.

(i) The [Board] STATE TREASURER shall set procedures to ensure that contributions to the Trust plus contributions or payments to other qualified ~~State~~ STATE tuition programs do not exceed a total maximum amount determined by § 529 of the Internal Revenue Code for contributions to multiple qualified ~~State~~ STATE tuition programs.

(j) The Maryland prepaid contract plan shall be referred to as the Senator Edward J. Kasemeyer prepaid contract plan.

18–1910.

(a) (1) The [Board] STATE TREASURER shall issue refunds as specified in this section.

(2) Unless authorized by the [Board] STATE TREASURER or under subsection (b) of this section, a refund may not exceed the amount paid into the Trust by the account holder.

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

(1) Is awarded a scholarship or tuition remission that covers benefits provided under the prepaid contract; or

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

1 (c) (1) A reduced refund of the contributions made to the Trust, as determined
2 by the [Board] **STATE TREASURER**, shall be made if:

3 (i) The beneficiary does not attend an institution of higher
4 education;

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

7 (iii) The prepaid contract is canceled by the account holder.

8 (2) The time that a qualified beneficiary spends in active duty as a member
9 of the United States armed forces shall be added to the time period allowed to exercise the
10 benefits under a prepaid contract before a termination under paragraph (1) of this
11 subsection.

12 18–1911.

13 The [Board] **PROGRAM**, Trust, and prepaid contracts issued under this subtitle are
14 not subject to the provisions of the Insurance Article.

15 18–1912.

16 The assets and income of the Trust are exempt from State and local taxation.

17 18–1913.

18 (a) In this section, “person” does not include the State.

19 (b) A person may not attach, execute, garnish, or otherwise seize any current or
20 future benefit under a prepaid contract or any asset of the Trust.

21 18–1914.

22 (a) Nothing in this subtitle or in any prepaid contract may be construed as a
23 promise or guarantee by the [Board] **STATE TREASURER** of admission to, continued
24 enrollment at, or graduation from an institution of higher education.

25 (b) The actual tuition rate charged to a qualified beneficiary shall be determined
26 at the time of enrollment in accordance with the residency policy adopted by the governing
27 board of the institution of higher education at which the qualified beneficiary enrolls.

28 18–1915.

1 The State and its agencies or any local government in the State may agree, by
2 contract or otherwise, to remit payments on behalf of an employee toward a prepaid
3 contract through payroll deductions.

4 18–1916.

5 (a) (1) The Legislative Auditor shall audit the Trust as provided under Title 2,
6 Subtitle 12 of the State Government Article.

7 (2) The [Board] **STATE TREASURER** shall cause an audit of the Trust to
8 be made by an outside independent auditor annually.

9 (3) The [Board] **STATE TREASURER** shall pay for the audit required
10 under paragraph (2) of this subsection.

11 (b) (1) Within 120 days after the close of each fiscal year, the [Board] **STATE**
12 **TREASURER** shall submit to the Governor and, subject to § 2–1257 of the State
13 Government Article, to the General Assembly a report including:

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

15 (ii) A financial accounting of the Trust, including:

16 1. The annual review of the comprehensive investment plan
17 which shall include:

18 A. The status of the investment program, including
19 investment income matched to projected enrollment costs under the existing prepaid
20 contracts;

21 B. The assets held in each class of investment, the amount of
22 funds held in any cash pool, the amount of funds held in fixed assets investments, and the
23 amount of funds held in equity investments;

24 C. The percentage and dollar value of assets placed with
25 outside managers;

26 D. The income produced by each class of investment; and

27 E. The income produced by each investment manager; and

28 2. A detailed account of the operating and administrative
29 budget for the Trust, which shall include a complete list of revenue sources and
30 expenditures detailing the line item expenditures for:

31 A. Salaries, wages, and fringe benefits;

1 B. Technical and special fees;

2 C. Communication;

3 D. Travel;

4 E. Contractual services;

5 F. Supplies and materials;

6 G. Equipment;

7 H. Fixed charges; and

8 I. Other expenses;

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

11 (iv) Efforts by the [Board] STATE TREASURER in marketing the
12 prepaid contracts under the Trust; and

13 (v) Any recommendations of the [Board] STATE TREASURER
14 concerning the operation of the Trust.

15 (2) The [Board] STATE TREASURER shall make available to each account
16 holder a copy of a summary of the report and the option to purchase the full report at a
17 nominal charge.

18 (c) The audit required by subsection (a)(2) of this section and the report required
19 by subsection (b) of this section may be combined with any other audit or report for the
20 same fiscal year required to be submitted by the [Board] STATE TREASURER to the
21 Governor and the General Assembly.

22 **18-1917.**

23 **(A) (1) EXCEPT AS PROVIDED IN PARAGRAPHS ~~(2), (3), AND (4)~~ (2) AND**
24 **(3) OF THIS SUBSECTION AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW,**
25 **AN ACCOUNT HOLDER OR A QUALIFIED BENEFICIARY MAY FILE A CLAIM ARISING**
26 **FROM THE ADMINISTRATION OF THE TRUST WITH THE STATE TREASURER, AS**
27 **FIDUCIARY OF THE TRUST.**

28 **(2) ~~SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, A~~ A CLAIM**
29 **MAY BE FILED ONLY BY AN ACCOUNT HOLDER OR A QUALIFIED BENEFICIARY FOR AN**
30 **ACCOUNT THAT WAS OPEN AND EXISTING ON OR AFTER NOVEMBER 1, 2021.**

1 ~~(3)~~ BY:

2 (I) AN ACCOUNT HOLDER; OR

3 (II) A QUALIFIED BENEFICIARY MAY ONLY FILE A CLAIM
4 RELATED TO FOR A DISTRIBUTION THAT WAS MADE TO THE QUALIFIED
5 BENEFICIARY OR TO AN ELIGIBLE EDUCATIONAL INSTITUTION ON THE
6 BENEFICIARY'S BEHALF.

7 ~~(4)~~ (3) ANY CLAIM BROUGHT UNDER THIS SECTION SHALL BE
8 SUBJECT TO THE EXCLUSIONS AND LIMITATIONS SET FORTH IN THIS SUBTITLE.

9 (B) A CLAIM FILED IN ACCORDANCE WITH SUBSECTION (A) OF THIS
10 SECTION SHALL BE FILED:

11 (1) FOR A CLAIM RELATING TO THE UPDATED TERMS INCLUDED IN
12 THE DISCLOSURE STATEMENT FOR THE TRUST THAT WENT INTO EFFECT
13 NOVEMBER 1, 2021:

14 (I) NOT SOONER THAN THE DATE OF THE NOTICE TO ACCOUNT
15 HOLDERS REQUIRED BY SUBSECTION (J)(2)(I) OF THIS SECTION; AND

16 (II) NOT LATER THAN DECEMBER 31, 2023; OR

17 (2) FOR ALL OTHER CLAIMS, 1 YEAR AFTER THE DATE THE CLAIM
18 ARISES.

19 (C) A CLAIM UNDER THIS SECTION SHALL:

20 (1) CONTAIN A CONCISE STATEMENT OF FACTS THAT SETS FORTH
21 THE NATURE OF THE CLAIM;

22 (2) STATE THE NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL
23 ADDRESS, IF ANY, OF THE CLAIMANT;

24 (3) STATE THE PREPAID TRUST ACCOUNT NUMBER TO WHICH THE
25 CLAIM RELATES;

26 (4) CONTAIN ANY OTHER INFORMATION REQUIRED TO BE SET FORTH
27 IN A CLAIM BY ANY PROCEDURES OR REGULATIONS ADOPTED BY THE STATE
28 TREASURER IN ACCORDANCE WITH SUBSECTION (J) OF THIS SECTION;

1 **(5) STATE THE NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL**
2 **ADDRESS OF THE LEGAL REPRESENTATIVE OR COUNSEL FOR THE CLAIMANT, IF**
3 **ANY; AND**

4 **(6) BE SIGNED BY THE CLAIMANT, OR THE LEGAL REPRESENTATIVE**
5 **OR COUNSEL FOR THE CLAIMANT.**

6 **(D) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE**
7 **STATE TREASURER SHALL:**

8 **(I) INVESTIGATE THE CLAIM;**

9 **(II) APPROVE OR DENY THE CLAIM IN WHOLE OR IN PART; AND**

10 **(III) NOTIFY THE CLAIMANT, OR THE LEGAL REPRESENTATIVE**
11 **OR COUNSEL FOR THE CLAIMANT, IF ANY, IN WRITING OF THE FINAL**
12 **DETERMINATION.**

13 **(2) IN THE EXERCISE OF THE STATE TREASURER'S FIDUCIARY**
14 **DUTIES, THE STATE TREASURER MAY:**

15 **(I) DELEGATE, WHOLLY OR PARTLY, THIS RESPONSIBILITY,**
16 **PROVIDED THAT ANY DELEGATE SHALL BE A FIDUCIARY WITH RESPECT TO MAKING**
17 **A FINAL DETERMINATION OF A CLAIM; AND**

18 **(II) CONTRACT FOR ANY SUPPORT SERVICES THAT ARE NEEDED**
19 **TO CARRY OUT THIS RESPONSIBILITY.**

20 **(3) FOR CLAIMS RELATING TO THE UPDATED TERMS INCLUDED IN**
21 **THE DISCLOSURE STATEMENT FOR THE TRUST THAT WENT INTO EFFECT**
22 **NOVEMBER 1, 2021, TO THE EXTENT PRACTICABLE, THE STATE TREASURER SHALL**
23 **PRIORITIZE THE PROCESSING OF CLAIMS OF ACCOUNT HOLDERS WHO:**

24 **(I) HAVE SOUGHT ~~DISBURSEMENTS~~ DISTRIBUTIONS FOR**
25 **QUALIFIED HIGHER EDUCATION EXPENSES BEFORE JUNE 1, 2023; OR**

26 **(II) WILL BE SEEKING ~~DISBURSEMENTS~~ DISTRIBUTIONS FOR**
27 **QUALIFIED HIGHER EDUCATION EXPENSES FOR THE FALL OF CALENDAR YEAR 2023.**

28 **(E) EACH FINAL DETERMINATION MADE BY THE STATE TREASURER IN**
29 **ACCORDANCE WITH THIS SECTION, SHALL BE MADE:**

30 **(1) INDEPENDENTLY AND IN THE STATE TREASURER'S ROLE AS**
31 **FIDUCIARY TO THE TRUST; AND**

1 **(2) SOLELY CONSIDERING THE INTERESTS OF ALL OF THE ACCOUNT**
2 **HOLDERS AND QUALIFIED BENEFICIARIES UNDER THE TRUST.**

3 **(F) ACCEPTANCE OF A SETTLEMENT BY A CLAIMANT:**

4 **(1) WITH RESPECT TO A CLAIM BROUGHT IN ACCORDANCE WITH**
5 **SUBSECTION (B)(1) OF THIS SECTION, SHALL BE CONDITIONED ON AN AGREEMENT**
6 **OF THE ACCOUNT HOLDER TO TRANSFER ALL FUNDS IN THE ACCOUNT TO ANY**
7 **OTHER QUALIFIED STATE TUITION PROGRAM; AND**

8 **(2) IS, AS TO THAT CLAIMANT AND ANY QUALIFIED BENEFICIARY OF**
9 **THE ACCOUNT TO WHICH THE CLAIM RELATES:**

10 **(I) FINAL; AND**

11 **(II) A COMPLETE RELEASE OF EACH CLAIM ARISING FROM THE**
12 **ADMINISTRATION OF THE TRUST AGAINST:**

13 **1. THE STATE;**

14 **2. EACH OF ITS UNITS;**

15 **3. ALL STATE PERSONNEL; AND**

16 **4. THE TRUST.**

17 **(G) THE STATE TREASURER, AS FIDUCIARY OF THE TRUST:**

18 **(1) MAKES THE FINAL DETERMINATION WITH RESPECT TO CLAIMS**
19 **SUBMITTED IN ACCORDANCE WITH THIS SECTION; AND**

20 **(2) IS EXEMPT FROM THE PROVISIONS OF TITLE 10, SUBTITLES 2 AND**
21 **3 OF THE STATE GOVERNMENT ARTICLE.**

22 **(H) ANY CLAIM BY AN ACCOUNT HOLDER OR A QUALIFIED BENEFICIARY**
23 **ARISING FROM THE ADMINISTRATION OF THE TRUST SHALL BE MADE SOLELY**
24 **AGAINST THE ASSETS OF THE TRUST.**

25 **(I) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THIS SECTION**
26 **PROVIDES THE EXCLUSIVE REMEDY FOR A CLAIM AGAINST THE ASSETS OF THE**
27 **TRUST.**

28 **(J) (1) THE STATE TREASURER SHALL:**

1 **(I) FOR CLAIMS BROUGHT IN ACCORDANCE WITH SUBSECTION**
2 **(B)(1) OF THIS SECTION, ESTABLISH PROCEDURES TO IMPLEMENT THE CLAIM**
3 **PROCESS ESTABLISHED IN THIS SECTION FOR THOSE CLAIMS; AND**

4 **(II) FOR ALL OTHER CLAIMS, ADOPT REGULATIONS FOR THE**
5 **CLAIM PROCESS ESTABLISHED IN THIS SECTION.**

6 **(2) THE STATE TREASURER SHALL PROVIDE NOTICE TO ACCOUNT**
7 **HOLDERS WITHIN 10 BUSINESS DAYS OF:**

8 **(I) THE ESTABLISHMENT OF THE PROCEDURES DESCRIBED IN**
9 **THIS SUBSECTION; AND**

10 **(II) THE ADOPTION OF REGULATIONS IN ACCORDANCE WITH**
11 **THIS SUBSECTION.**

12 18–19A–01.

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

14 (b) “Account holder” means the person who established an investment account on
15 behalf of a qualified designated beneficiary.

16 (c) [“Board” means the Maryland 529 Board established under § 18–1904 of this
17 title.

18 (d) [“Eligible educational institution” has the meaning stated in § 529(e) of the
19 Internal Revenue Code.

20 [(e)] **(D)** “Investment account” means an account established by an account
21 holder under this subtitle on behalf of a qualified designated beneficiary for the purpose of
22 applying distributions toward qualified higher education expenses at eligible educational
23 institutions.

24 [(f)] **(E)** “Plan” means the Maryland Senator Edward J. Kasemeyer College
25 Investment Plan established under this subtitle.

26 [(g)] **(F)** “Qualified designated beneficiary” has the meaning stated in § 529 of
27 the Internal Revenue Code.

28 [(h)] **(G)** “Qualified higher education expenses” has the meaning stated in § 529
29 of the Internal Revenue Code.

1 **[(i)] (H)** “Qualified state tuition program” has the meaning stated in § 529 of the
2 Internal Revenue Code.

3 18–19A–02.

4 (a) There is a Maryland Senator Edward J. Kasemeyer College Investment Plan.

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

8 (c) (1) The **[Board] STATE TREASURER** shall administer, manage, promote,
9 and market the Plan.

10 (2) The **[Board] STATE TREASURER** shall administer the Plan in
11 compliance with Internal Revenue Service standards for qualified ~~State~~ **STATE** tuition
12 programs.

13 (d) The **[Board] STATE TREASURER** shall adopt procedures that the **[Board]**
14 **STATE TREASURER** considers necessary to carry out the provisions of this subtitle.

15 (e) The **[Board] STATE TREASURER** shall adopt procedures relating to:

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

17 (2) Start–up costs incurred by the State for the development of the Plan
18 with these costs to be reimbursed to the State by the Plan;

19 (3) Early withdrawals, so that there will be no major detriment to the
20 remaining account holders in the Plan;

21 (4) The State contribution program;

22 (5) Transfer of funds from the Plan to other qualified ~~State~~ **STATE** tuition
23 programs and from other qualified ~~State~~ **STATE** tuition programs to the Plan in accordance
24 with federal law; and

25 (6) Transfer of funds from the Plan to a qualified ABLE program
26 established in accordance with § 529A of the Internal Revenue Code.

27 (f) At least annually, the **[Board] STATE TREASURER** shall issue to each
28 account holder a statement that provides a separate accounting for each qualified
29 designated beneficiary providing the following information with respect to each account:

30 (1) The beginning balance;

1 (2) Contributions to the account, including any State contribution;

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

3 (4) Ending investment account value.

4 18–19A–03.

5 (a) (1) The [Board] **STATE TREASURER** may issue requests for proposals to
6 evaluate and determine the means for the administration, management, promotion, or
7 marketing of the Plan.

8 (2) The [Board] **STATE TREASURER** shall consider proposals that meet
9 the following criteria:

10 (i) Ability to develop and administer an investment program of a
11 nature similar to the objectives of the Plan;

12 (ii) Ability to administer financial programs with individual account
13 records and reporting;

14 (iii) Ability to market the Plan to Maryland residents;

15 (iv) Ability to market the Plan to nonresidents of Maryland; and

16 (v) Ability to coordinate the Plan with other programs or
17 informational services considered beneficial by the [Board] **STATE TREASURER**, including
18 the Maryland Senator Edward J. Kasemeyer Prepaid College Trust established under
19 Subtitle 19 of this title.

20 (b) (1) Except for applications made under § 18–19A–04.1 of this subtitle, the
21 [Board] **STATE TREASURER** may require an initial application fee to be used for
22 administrative costs of the Plan.

23 (2) The [Board] **STATE TREASURER** may require additional fees
24 associated with the expenses of the Plan.

25 (c) (1) Contributions to the Plan on behalf of a qualified designated beneficiary
26 may not exceed the maximum amount determined by the [Board] **STATE TREASURER** to
27 be in accordance with § 529 of the Internal Revenue Code.

28 (2) Contributions to the Plan may be made only in cash or cash equivalent.

29 (3) The Plan shall include provisions for automatic contributions.

1 (d) The [Board] **STATE TREASURER** shall adopt procedures to ensure that
2 contributions to the Plan plus contributions or payments to other qualified ~~State~~ **STATE**
3 tuition programs do not exceed a total maximum amount determined under § 529 of the
4 Internal Revenue Code for contributions to multiple qualified ~~State~~ **STATE** tuition
5 programs.

6 (e) (1) The Plan:

7 (i) Shall be established in the form determined by the [Board]
8 **STATE TREASURER**; and

9 (ii) May be established as a trust to be declared by the [Board]
10 **STATE TREASURER**.

11 (2) The Plan may be divided into multiple investment portfolios.

12 (3) If the Plan is divided into multiple portfolios as provided in paragraph
13 (2) of this subsection, the debts, liabilities, obligations, and expenses incurred, contracted
14 for, or otherwise existing with respect to a particular portfolio shall be enforceable against
15 the assets of that portfolio only and not against the assets of the Plan generally, if:

16 (i) Distinct records are maintained for each portfolio; and

17 (ii) The assets associated with each portfolio are accounted for
18 separately from the other assets of the Plan.

19 (f) The Maryland College Investment Plan shall be referred to as the Senator
20 Edward J. Kasemeyer College Investment Plan.

21 18–19A–04.

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

24 (b) Distributions shall be requested by the account holder.

25 18–19A–04.1.

26 (a) (1) Subject to paragraph (2) of this subsection, for investment accounts
27 established after December 31, 2016, a State contribution may be made to not more than
28 two investment accounts for each qualified beneficiary as provided in this section if:

29 (i) The qualified beneficiary of the investment account and the
30 account holder are Maryland residents;

1 (ii) The account holder is at least 18 years old for applications filed
2 on or after January 1, 2022;

3 (iii) The account holder submits an application to the [Board] **STATE**
4 **TREASURER** or [its] **THE STATE TREASURER'S** designee between January 1 and June 1
5 of each year;

6 (iv) The account holder has Maryland adjusted gross income in the
7 previous taxable year no greater than \$112,500 for an individual or \$175,000 for a married
8 couple filing a joint return;

9 (v) The account holder files income taxes on or before July 15 of each
10 year; and

11 (vi) The qualified beneficiary is under the age of 26 years in the
12 calendar year before the account holder submits an application.

13 (2) For State contribution application periods after December 31, 2020, a
14 qualified beneficiary may not receive more than two State contributions for each year the
15 qualified beneficiary is eligible for the State contribution under this section.

16 (b) (1) An application may be made in person, online, or by mail.

17 (2) The [Board] **STATE TREASURER** shall develop:

18 (i) An application form that:

19 1. Includes permission for confirming Maryland taxable
20 income with the Comptroller; and

21 2. Allows for certification of Maryland residency;

22 (ii) A procedure to certify the date and time of receipt of an
23 application; and

24 (iii) Any other necessary procedures for the submittal of applications.

25 (c) (1) For an account holder with Maryland adjusted gross income of less than
26 \$50,000 for an individual or \$75,000 for a married couple filing a joint return who
27 contributes at least \$25 per beneficiary during the contribution period in subsection (e) of
28 this section, the State shall provide an additional \$500 per beneficiary.

29 (2) For an account holder with Maryland adjusted gross income of at least
30 \$50,000 but less than \$87,500 for an individual or at least \$75,000 but less than \$125,000
31 for a married couple filing a joint return who contributes at least \$100 per beneficiary

1 during the contribution period in subsection (e) of this section, the State shall provide an
2 additional \$500 per beneficiary.

3 (3) For an account holder with Maryland adjusted gross income of at least
4 \$87,500 but no greater than \$112,500 for an individual or at least \$125,000 but no greater
5 than \$175,000 for a married couple filing a joint return who contributes at least \$250 per
6 beneficiary during the contribution period in subsection (e) of this section, the State shall
7 provide an additional \$250 per beneficiary.

8 (d) (1) The Governor shall include in the annual budget bill an appropriation
9 of at least ~~the following amounts for State contributions:~~

10 (i) ~~\$5,000,000 in fiscal year 2018; and~~

11 (ii) ~~\$3,000,000 in fiscal year 2019 and each fiscal year thereafter.~~

12 (2) If the funding provided in a fiscal year is not sufficient to fully fund all
13 State contributions authorized under this section, the [Board] **STATE TREASURER** shall:

14 (i) Provide contributions in the order in which applications are
15 received; and

16 (ii) Give priority to applications of account holders who have not
17 received a contribution.

18 (e) (1) An account holder shall contribute at least the amount specified under
19 subsection (c) of this section on or before November 1 of each year in order to qualify for the
20 State contribution.

21 (2) A State contribution shall be made by December 31 of the calendar year
22 in which the account holder made the contribution.

23 (f) (1) An account holder is not eligible for the subtraction modification under
24 § 10-208 of the Tax – General Article for any taxable year in which the account holder
25 receives a State contribution.

26 (2) An account holder may qualify for not more than \$9,000 in State
27 contributions through the lifetime of the account holder.

28 (g) (1) The [Board] **STATE TREASURER** shall ~~develop and implement by~~
29 ~~September 1, 2018,~~ **UTILIZE** an outreach and marketing plan to provide notification to
30 individuals about the availability of a State contribution.

31 (2) The outreach and marketing plan shall:

1 (i) Make use of a variety of marketing media, including billboards,
2 brochures, and electronic resources; and

3 (ii) Provide a centralized contact point for individuals to obtain
4 information about opening an account and the availability of a State contribution.

5 [(3) By December 1, 2018, the Board shall submit a report in accordance
6 with § 2–1257 of the State Government Article to the General Assembly on the details of
7 the outreach and marketing plan.]

8 (h) The [Board] **STATE TREASURER** may adopt any regulations that the [Board]
9 **STATE TREASURER** considers necessary to carry out the provisions of this section.

10 18–19A–05.

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

15 (2) The [Board] **STATE TREASURER** cannot directly or indirectly or
16 contingently obligate, morally or otherwise, the State to levy or pledge any form of taxation
17 whatsoever for the debts and obligations of the Plan or to make any appropriation for the
18 payment of the debts and obligations of the Plan.

19 (b) Neither the State nor any eligible educational institution shall be liable for
20 any losses or shortage of funds in the event that the account holder's investment account
21 balance is insufficient to meet the tuition requirements of an institution attended by the
22 qualified designated beneficiary.

23 (c) Money of the Plan may not be considered money of the State or deposited in
24 the State Treasury.

25 (d) Money of the Plan may not be considered money of or commingled with the
26 Maryland Senator Edward J. Kasemeyer Prepaid College Trust.

27 (e) Money of the Plan may not be considered money of or commingled with the
28 Maryland Broker–Dealer College Investment Plan.

29 (f) Money of the Plan may not be considered money of or commingled with the
30 Maryland ABLE Program.

31 18–19A–05.1.

32 The [Board] **MARYLAND 529 PROGRAM**, Plan, and investment accounts issued
33 under this subtitle are not subject to the provisions of the Insurance Article.

1 18-19A-06.

2 The assets and income of the Maryland Senator Edward J. Kasemeyer College
3 Investment Plan are exempt from State and local taxation.

4 18-19A-06.1.

5 (a) In this section, "person" does not include the State.

6 (b) A person may not attach, execute, garnish, or otherwise seize any current or
7 future benefit under an investment account or any asset of the Plan.

8 18-19A-07.

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

11 (2) The [Board] **STATE TREASURER** shall obtain an annual audit report
12 from service providers.

13 (b) (1) Within 120 days after the close of each fiscal year, the [Board] **STATE**
14 **TREASURER** shall submit to the Governor and, subject to § 2-1257 of the State
15 Government Article, to the General Assembly a report including:

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

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

18 A. The status of the investment program;

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

20 C. The percentage and dollar value of assets placed with
21 outside managers;

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

23 E. The income produced by each investment manager;

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

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

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

4 A. Salaries, wages, and fringe benefits;

5 B. Technical and special fees;

6 C. Communication;

7 D. Travel;

8 E. Contractual services;

9 F. Supplies and materials;

10 G. Equipment;

11 H. Fixed charges; and

12 I. Other expenses;

13 (ii) The number of new account holders during the previous fiscal
14 year;

15 (iii) Efforts in marketing the Plan; and

16 (iv) Any recommendations of the [Board] **STATE TREASURER**
17 concerning the operation of the Plan.

18 (2) The [Board] **STATE TREASURER** shall make available to each account
19 holder a copy of a summary of the report and the option to purchase the full report at a
20 nominal charge.

21 ~~¶~~(c) The audit required by subsection (a)(2) of this section and the report required
22 by subsection (b) of this section, at the ~~Board's~~ **STATE TREASURER'S** discretion, may be
23 combined with any other audit or report for the same fiscal year required to be submitted
24 by the ~~Board~~ **STATE TREASURER** to the Governor and the General Assembly. ~~¶~~

25 18-19B-01.

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

27 (b) “Account holder” means the person who established an investment account on
28 behalf of a qualified designated beneficiary.

1 (c) ["Board" means the Maryland 529 Board established under § 18–1904 of this
2 title.

3 (d) "Broker–Dealer Plan" means the Maryland Broker–Dealer College
4 Investment Plan established under this subtitle.

5 [(e) (D) "Eligible educational institution" has the meaning stated in § 529(e) of
6 the Internal Revenue Code.

7 [(f) (E) "Investment account" means an account established by an account
8 holder under this subtitle on behalf of a qualified designated beneficiary for the purpose of
9 applying distributions toward qualified higher education expenses at eligible educational
10 institutions.

11 [(g) (F) "Qualified designated beneficiary" has the meaning stated in § 529(e)
12 of the Internal Revenue Code.

13 [(h) (G) "Qualified higher education expenses" has the meaning stated in §
14 529(e) of the Internal Revenue Code.

15 [(i) (H) "Qualified State tuition program" has the meaning stated in § 529 of
16 the Internal Revenue Code.
17 18–19B–02.

18 (a) The [Board] **STATE TREASURER** may establish a Maryland Broker–Dealer
19 College Investment Plan.

20 (b) The purpose of the Broker–Dealer Plan is to provide for a broker–dealer
21 distributed vehicle that would allow contributions to an investment account established for
22 the purposes of meeting the qualified higher education expenses of the qualified designated
23 beneficiary of the account.

24 (c) (1) The [Board] **STATE TREASURER** shall administer, manage, and
25 promote the Broker–Dealer Plan.

26 (2) The [Board] **STATE TREASURER** shall administer the Broker–Dealer
27 Plan in compliance with Internal Revenue Service standards for qualified ~~State~~ **STATE**
28 tuition programs.

29 (d) (1) The [Board] **STATE TREASURER** shall adopt procedures relating to:

30 (i) Enrollment procedures for participation in the Broker–Dealer
31 Plan;

1 (ii) Start-up costs incurred by the State for the development of the
2 Broker-Dealer Plan with these costs to be reimbursed to the State by the Broker-Dealer
3 Plan;

4 (iii) Early withdrawals so that there will be no major detriment to
5 the remaining account holders in the Broker-Dealer Plan;

6 (iv) Transfer of funds from the Broker-Dealer Plan to other qualified
7 State tuition programs and from other qualified State tuition programs to the
8 Broker-Dealer Plan in accordance with federal law; and

9 (v) Transfer of funds from the Broker-Dealer Plan to a qualified
10 ABLE program established in accordance with § 529A of the Internal Revenue Code.

11 (2) The [Board] **STATE TREASURER** shall adopt any other procedures
12 that the [Board] **STATE TREASURER** considers necessary to carry out the provisions of
13 this subtitle.

14 (e) At least annually, the [Board] **STATE TREASURER** shall issue to each
15 account holder a statement that provides a separate accounting for each qualified
16 designated beneficiary providing the following information with respect to each account:

17 (1) The beginning balance;

18 (2) Contributions to the account;

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

20 (4) Ending investment account value.

21 18-19B-03.

22 (a) (1) The [Board] **STATE TREASURER** may issue requests for proposals to
23 evaluate and determine the means for the administration, management, promotion, or
24 marketing of the Broker-Dealer Plan.

25 (2) The [Board] **STATE TREASURER** shall consider proposals that meet
26 the following criteria:

27 (i) Ability to develop and administer an investment program of a
28 nature similar to the objectives of the Broker-Dealer Plan;

29 (ii) Ability to administer financial programs with individual account
30 records and reporting; and

1 (iii) Ability to market the Broker–Dealer Plan to Maryland residents
2 and, at the [Board’s] **STATE TREASURER’S** discretion, nonresidents of Maryland.

3 (b) (1) The [Board] **STATE TREASURER** may require an initial enrollment fee
4 to be used for administrative costs of the Broker–Dealer Plan.

5 (2) The [Board] **STATE TREASURER** may require additional fees
6 associated with the expenses of the Broker–Dealer Plan.

7 (c) (1) Contributions to the Broker–Dealer Plan on behalf of a qualified
8 designated beneficiary may not exceed the maximum amount determined by the [Board]
9 **STATE TREASURER** to be in accordance with § 529 of the Internal Revenue Code.

10 (2) Contributions to the Broker–Dealer Plan may be made only in cash or
11 cash equivalents.

12 (3) The Broker–Dealer Plan shall include provisions for automatic
13 contributions.

14 (d) (1) The Broker–Dealer Plan:

15 (i) May be established as one or more separate plans as determined
16 by the [Board] **STATE TREASURER**;

17 (ii) If established by the [Board] **STATE TREASURER**, shall be
18 established in the form determined by the [Board] **STATE TREASURER**;

19 (iii) Shall be marketed and promoted under the name or names
20 determined by the [Board] **STATE TREASURER**; and

21 (iv) May be established as one or more trusts to be declared by the
22 [Board] **STATE TREASURER**.

23 (2) The Broker–Dealer Plan may be divided into multiple investment
24 options.

25 18–19B–04.

26 (a) A Maryland resident or, at the [Board’s] **STATE TREASURER’S** discretion, a
27 nonresident of Maryland may participate in and benefit from the Broker–Dealer Plan.

28 (b) Distributions shall be requested by the account holder.

29 18–19B–05.

1 (a) (1) The debts, contracts, and obligations of the Broker–Dealer Plan are not
2 the contracts, debts, or obligations of the State, and neither the faith and credit nor taxing
3 power of the State is pledged directly or indirectly or contingently, morally or otherwise, to
4 the payment of the debts, contracts, and obligations.

5 (2) The [Board] **STATE TREASURER** cannot directly or indirectly or
6 contingently obligate, morally or otherwise, the State to levy or pledge any form of taxation
7 whatsoever for the debts and obligations of the Broker–Dealer Plan or to make any
8 appropriation for the payment of the debts and obligations of the Broker–Dealer Plan.

9 (b) Neither the State nor any eligible educational institution shall be liable for
10 any losses or shortage of funds in the event that the account holder’s investment account
11 balance is insufficient to meet the tuition requirements of an institution attended by the
12 qualified designated beneficiary.

13 (c) Money of the Broker–Dealer Plan may not be considered money of the State
14 or deposited in the State Treasury.

15 (d) Money of the Broker–Dealer Plan may not be considered money of or
16 commingled with the Maryland Senator Edward J. Kasemeyer Prepaid College Trust.

17 (e) Money of the Broker–Dealer Plan may not be considered money of or
18 commingled with the Maryland Senator Edward J. Kasemeyer College Investment Plan.

19 (f) Money of the Broker–Dealer Plan may not be considered money of or
20 commingled with the Maryland ABLE Program.

21 18–19B–06.

22 (a) The [Board] **MARYLAND 529 PROGRAM**, the Broker–Dealer Plan, and the
23 investment accounts issued under this subtitle are not subject to the provisions of the
24 Insurance Article.

25 (b) The assets and income of the Maryland Broker–Dealer College Investment
26 Plan are exempt from State and local taxation.

27 18–19B–07.

28 (a) In this section, “person” does not include the State.

29 (b) A person may not attach, execute, garnish, or otherwise seize any current or
30 future benefit under an investment account or any asset of the Broker–Dealer Plan.

31 18–19B–08.

32 (a) The Legislative Auditor shall audit the Broker–Dealer Plan as provided under
33 Title 2, Subtitle 12 of the State Government Article.

1 (b) The [Board] **STATE TREASURER** shall obtain an annual audit report from
2 service provider(s) within six months of the end of such service provider's reporting period.

3 18–19C–01.

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

5 (b) “ABLE account” means an account described under § 529A(e) of the Internal
6 Revenue Code.

7 (c) “ABLE account contributor” means an individual who contributes money to
8 an ABLE account described under § 529A(e) of the Internal Revenue Code.

9 (d) “ABLE account holder” means an individual who ~~has established an account~~
10 ~~described under § 529A(e) of the Internal Revenue Code and~~ is the designated beneficiary
11 of the AN account ***DESCRIBED UNDER § 529A(E) OF THE INTERNAL REVENUE CODE.***

12 (e) [“Board” means the Maryland 529 Board established under § 18–1904 of this
13 title.

14 (f) [“Designated beneficiary” means an individual described in § 529A(e) of the
15 Internal Revenue Code.

16 [(g)] (F) “Maryland ABLE Program” means a qualified ABLE program described
17 in § 529A(b) of the Internal Revenue Code.

18 [(h)] (G) “Qualified disability expenses” means expenses described in § 529A(e)
19 of the Internal Revenue Code.

20 18–19C–02.

21 (a) (1) The [Board] **STATE TREASURER** shall establish a Maryland ABLE
22 Program that shall be subject to the provisions of § 529A of the Internal Revenue Code.

23 (2) It is the goal of the State that the Maryland ABLE Program be fully
24 operational by October 1, 2017.

25 (b) The purpose of the Maryland ABLE Program is to:

26 (1) Encourage and assist individuals and families in saving private funds
27 to support individuals with disabilities to maintain health, independence, and quality of
28 life; and

29 (2) Provide secure funding for disability–related expenses on behalf of
30 designated beneficiaries with disabilities that will supplement, not supplant, benefits

1 provided through private insurance, the Medicaid program under Title XIX of the Social
 2 Security Act, the Supplemental Security Income program under Title XVI of the Social
 3 Security Act, the beneficiary's employment, and any other source.

4 (c) (1) The [Board] **STATE TREASURER** shall ~~develop, establish,~~ administer,
 5 manage, and promote the Maryland ABLÉ Program.

6 (2) The [Board] **STATE TREASURER** shall administer the Maryland
 7 ABLÉ Program in compliance with Internal Revenue Service standards for qualified ABLÉ
 8 programs.

9 (3) The [Board] **STATE TREASURER** shall work in consultation with the
 10 Department of Disabilities to ~~develop,~~ administer, manage, and promote the Maryland
 11 ABLÉ Program.

12 (4) The [Board] **STATE TREASURER** may collaborate and participate with
 13 other states or entities to ~~develop,~~ administer, manage, and promote the Maryland ABLÉ
 14 Program, including participating with a consortium of states that are implementing ABLÉ
 15 programs in those states or as a consortium of states.

16 (d) ~~(1)~~ The [Board] **STATE TREASURER** shall adopt procedures relating to:

17 ~~(i)~~ ~~Enrollment~~ ENROLLMENT for participation in the Maryland
 18 ABLÉ Program; ~~and~~

19 ~~(ii)~~ ~~Start-up costs incurred by the State for the development of the~~
 20 ~~Maryland ABLÉ Program with these costs to be reimbursed to the State by the Maryland~~
 21 ~~ABLÉ Program.~~

22 ~~(2)~~ ~~The [Board] STATE TREASURER shall adopt~~ AND any other
 23 procedures that the [Board] **STATE TREASURER** considers necessary to carry out the
 24 provisions of this subtitle.

25 (e) At least annually, the [Board] **STATE TREASURER** shall issue to each ABLÉ
 26 account holder a statement that provides a separate accounting for each designated
 27 beneficiary providing the following information with respect to each account:

28 (1) The beginning balance;

29 (2) Contributions to the account;

30 (3) Distributions from the account during the previous year; and

31 (4) Ending ABLÉ account value.

- 1 (a) (1) The **[Board] STATE TREASURER** may issue requests for proposals to
2 evaluate and determine the means for the administration, management, promotion, or
3 marketing of the Maryland ABLE Program.
- 4 (2) The **[Board] STATE TREASURER** shall consider proposals that meet
5 the following criteria:
- 6 (i) Ability to develop and administer an investment program of a
7 nature similar to the objectives of the Maryland ABLE Program;
- 8 (ii) Ability to administer financial programs with individual account
9 records and reporting; and
- 10 (iii) Ability to market the Maryland ABLE Program to eligible
11 individuals.
- 12 (b) (1) The **[Board] STATE TREASURER** may require an initial enrollment fee
13 to be used for administrative costs of the Maryland ABLE Program.
- 14 (2) The **[Board] STATE TREASURER** may require additional reasonable
15 fees associated with the expenses of the Maryland ABLE Program.
- 16 (c) (1) The Maryland ABLE Program is subject to the provisions of § 529A of
17 the Internal Revenue Code.
- 18 (2) The Maryland ABLE Program shall include provisions for automatic
19 contributions.
- 20 (3) Money and assets in the accounts established under the Maryland
21 ABLE Program or an ABLE program in any other state may not be considered for the
22 purpose of determining eligibility to receive, or the amount of, any assistance or benefits
23 from local or State means-tested programs.
- 24 (4) Money and assets contributed in each calendar year to the account of
25 each ABLE account holder may not exceed the amount specified in § 529A(b)(2) of the
26 Internal Revenue Code for each calendar year in which the taxable year begins.
- 27 (5) Contributions to the account of each ABLE account holder may not
28 exceed the maximum amount determined by the **[Board] STATE TREASURER** to be in
29 accordance with § 529A(b)(6) of the Internal Revenue Code.
- 30 (d) The Maryland ABLE Program may receive money from:
- 31 (1) Appropriations in the State budget;

1 (2) Reasonable fees assessed to beneficiaries;

2 (3) Grants or other assistance from federal, State, or local government; and

3 (4) Any other money from any public or private source.

4 (e) (1) The Maryland ABLE Program:

5 (i) May be established as one or more separate plans as determined
6 by the **[Board] STATE TREASURER**;

7 (ii) Shall be established in the form determined by the **[Board]**
8 **STATE TREASURER**;

9 (iii) Shall be marketed and promoted under the name or names
10 determined by the **[Board] STATE TREASURER**; and

11 (iv) May be established as one or more trusts to be declared by the
12 **[Board] STATE TREASURER**.

13 (2) The Maryland ABLE Program may be divided into multiple investment
14 options.

15 18–19C–04.

16 (a) An eligible individual, as defined in § 529A(e) of the Internal Revenue Code,
17 may participate in and benefit from the Maryland ABLE Program.

18 (b) Distributions shall be requested by the designated beneficiary subject to the
19 provisions of § 529A of the Internal Revenue Code.

20 18–19C–05.

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

25 (2) The **[Board] STATE TREASURER** may not directly or indirectly or
26 contingently obligate, morally or otherwise, the State to levy or pledge any form of taxation
27 whatsoever for the debts and obligations of the Maryland ABLE Program or to make any
28 appropriation for the payment of the debts and obligations of the Maryland ABLE Program.

29 (b) The State may not be liable for any losses or shortage of funds in the event
30 that the designated beneficiary's ABLE account balance is insufficient to meet the
31 designated beneficiary's qualified disability expenses.

1 (c) Money of the Maryland ABLE Program may not be considered money of the
2 State or deposited in the State Treasury.

3 (d) Money of the Maryland ABLE Program may not be considered money of or
4 commingled with the Maryland Senator Edward J. Kasemeyer Prepaid College Trust.

5 (e) Money of the Maryland ABLE Program may not be considered money of or
6 commingled with the Maryland Senator Edward J. Kasemeyer College Investment Plan.

7 (f) Money of the Maryland ABLE Program may not be considered money of or
8 commingled with the Maryland Broker–Dealer College Investment Plan.

9 18–19C–06.

10 (a) The [Board] **MARYLAND 529 PROGRAM**, the Maryland ABLE Program, and
11 the ABLE accounts issued under this subtitle are not subject to the provisions of the
12 Insurance Article.

13 (b) The assets and income of the Maryland ABLE Program are exempt from State
14 and local taxation.

15 18–19C–07.

16 (a) In this section, “person” does not include the State.

17 (b) A person may not attach, execute, garnish, or otherwise seize any current or
18 future benefit under an ABLE account or any asset of the Maryland ABLE Program.

19 18–19C–08.

20 (a) The Legislative Auditor shall audit the Maryland ABLE Program as provided
21 under Title 2, Subtitle 12 of the State Government Article.

22 (b) The [Board] **STATE TREASURER** shall obtain an annual audit report from a
23 service provider within 6 months of the end of the reporting period of the service provider.

24 18–19C–09.

25 (a) The [Board] **STATE TREASURER** shall issue refunds as specified in this
26 section.

27 (b) If the contribution of an ABLE account contributor under the Maryland ABLE
28 Program would result in aggregate contributions from all contributors to the ABLE account
29 for the taxable year exceeding the amount specified in § 529A(b)(2) of the Internal Revenue

1 Code for each calendar year in which the taxable year begins, the [Board] STATE
2 **TREASURER** shall issue a refund to the ABLE account contributor.

3 (c) The [Board] **STATE TREASURER** shall adopt procedures to ensure that
4 contributions to the account of each ABLE account holder do not exceed the total maximum
5 amount determined under § 529A(b)(6) of the Internal Revenue Code.

6 18–19C–10.

7 (a) Unless prohibited by federal law, on the death of a designated beneficiary,
8 money and assets in an ABLE account may be transferred to:

9 (1) The estate of the designated beneficiary; or

10 (2) An ABLE account for another eligible individual specified by the
11 designated beneficiary or the estate of the designated beneficiary.

12 (b) Unless required by federal law, an agency or instrumentality of the State may
13 not seek payment under § 529A(f) of the Internal Revenue Code from an ABLE account or
14 its proceeds for any amount of medical assistance paid for the designated beneficiary.

15 **Article – State Finance and Procurement**

16 11–203.

17 (f) Except as provided in Title 12, Subtitle 4 and Title 14, Subtitle 3 of this article,
18 this Division II does not apply to Maryland 529 for:

19 (1) services of managers to invest the assets of the Maryland Senator
20 Edward J. Kasemeyer Prepaid College Trust in accordance with the comprehensive
21 investment plan adopted by the [Maryland 529 Board] **STATE TREASURER** under §
22 18–1906 of the Education Article; and

23 (2) expenditures to manage, maintain, and enhance the value of the assets
24 of the Maryland Senator Edward J. Kasemeyer Prepaid College Trust in accordance with
25 the comprehensive investment plan adopted by the [Maryland 529 Board] **STATE**
26 **TREASURER** under § 18–1906 of the Education Article.

27 **Article – State Government**

28 9–803.

29 (a) The Commission consists of the following members:

30 (10) the Secretary of Higher Education, or the Secretary's designee; ~~and~~

~~(11) THE EXECUTIVE DIRECTOR OF THE MARYLAND 529 PROGRAM,
OR THE EXECUTIVE DIRECTOR'S DESIGNEE; AND~~

(11) THE SECRETARY OF DISABILITIES, OR THE SECRETARY'S
DESIGNEE; AND

~~[(11)] (12) the following members, appointed by the Governor:~~

[(11)] (12) the following members, appointed by the Governor:

(i) one member of the Board of Trustees of the Maryland Teachers and State Employees Supplemental Retirement Plans;

(ii) [one member of the Maryland 529 Board;

(iii)] one member of the Maryland State Education Association who teaches a course involving principles of financial education;

[(iv)] (III) one representative of the Maryland CASH Campaign;

[(v)] (IV) one representative of a community-focused nonprofit organization that provides free financial education in the State;

[(vi)] (V) one representative of a philanthropic organization that provides funding for financial education in the State;

[(vii)] (VI) one representative of the Maryland Council on Economic Education or the Maryland Coalition for Financial Literacy;

[(viii)] (VII) one representative of a bank, whether or not State-chartered, that has a branch in the State;

[(ix)] (VIII) one representative of a credit union, whether or not State-chartered, that has a branch in the State;

[(x)] (IX) one licensed mortgage broker holding the Maryland Association of Mortgage Brokers' "Lending Seal of Integrity";

[(xi)] (X) one member of the Maryland Association of CPAs; and

[(xii)] (XI) one representative of a nonprofit organization in the State that provides financial assistance and free financial education to State residents for postsecondary education.

~~SECTION 2. AND BE IT FURTHER ENACTED, That:~~

- 1 ~~(a) There is a Workgroup on the Maryland 529 Prepaid College Trust Program.~~
- 2 ~~(b) The Workgroup consists of the following members:~~
- 3 ~~(1) the State Treasurer;~~
- 4 ~~(2) two Maryland 529 account holders who have experienced issues~~
5 ~~accessing their funds, appointed by the Governor;~~
- 6 ~~(3) two members of the Senate of Maryland, appointed by the President of~~
7 ~~the Senate; and~~
- 8 ~~(4) two members of the House of Delegates, appointed by the Speaker of~~
9 ~~the House.~~
- 10 ~~(c) The State Treasurer shall provide staff for the Workgroup.~~
- 11 ~~(d) The Workgroup shall elect a chair of the Workgroup by a majority vote at the~~
12 ~~first meeting.~~
- 13 ~~(e) A member of the Workgroup:~~
- 14 ~~(1) may not receive compensation as a member of the Workgroup; but~~
- 15 ~~(2) is entitled to reimbursement for expenses under the Standard State~~
16 ~~Travel Regulations, as provided in the State budget.~~
- 17 ~~(f) The Workgroup shall:~~
- 18 ~~(1) identify policies, procedures, and practices that led to issues relating to~~
19 ~~the earnings calculation formula and Maryland 529 account holders' inability to access~~
20 ~~their prepaid college trust benefits to pay for college expenses; and~~
- 21 ~~(2) develop and make recommendations for improvement in:~~
- 22 ~~(i) the Maryland 529 policies, procedures, and practices to ensure~~
23 ~~the prevention of similar issues in the future;~~
- 24 ~~(ii) communication and transparency for Maryland 529 account~~
25 ~~holders; and~~
- 26 ~~(iii) accountability for the individuals responsible for properly~~
27 ~~exercising Maryland 529's fiduciary responsibility and managing the prepaid college trust~~
28 ~~to meet its contractual obligations.~~

~~(g) On or before June 1, 2024, the Workgroup shall report its findings and recommendations to the Governor and, in accordance with § 2-1257 of the State Government Article, the General Assembly.~~

SECTION ~~2~~ 2. AND BE IT FURTHER ENACTED, That, on June 1, 2023, the Maryland 529 Board is hereby abolished and the State Treasurer shall be the successor of the Maryland 529 Board.

SECTION ~~4~~ 3. AND BE IT FURTHER ENACTED, That:

(a) The responsibility for administering the Maryland 529 Program shall be transferred to the Office of the State Treasurer on June 1, 2023.

(b) (1) All appropriations, including State and federal funds, held by the agencies and units of the State to carry out the functions, programs, and services transferred under this Act shall be transferred to the Office of the State Treasurer on June 1, 2023.

(2) Funding for the services and programs under the Maryland 529 Program shall be provided for the Office of the State Treasurer beginning in the fiscal year 2025 State budget.

(3) Federal fund grants directed to the State through other State agencies shall be transferred to the Office of the State Treasurer on June 1, 2023.

(c) Before June 1, 2023:

(1) the Maryland 529 Board and its staff shall cooperate fully and in a timely manner with all requests from the State Treasurer related to the transition of the Maryland 529 Program to the Office of the State Treasurer, including any requests to:

(i) inspect records and documents related to the Program; and

(ii) receive information or services from outside service providers engaged by the Board; and

(2) the State Treasurer may take any action deemed necessary or appropriate to prepare for the transfer of the administration of the Maryland 529 Program to the Office of the State Treasurer on June 1, 2023.

~~(e)~~ (d) On June 1, 2023, all of the functions, powers, duties, books and records (including electronic records), real and personal property, equipment, fixtures, assets, liabilities, obligations, credits, rights, and privileges of the agencies, units, and entities that are transferred under this Act shall be transferred to the Office of the State Treasurer.

1 SECTION ~~5~~ 4. AND BE IT FURTHER ENACTED, That all employees who are
2 transferred to the Office of the State Treasurer as a result of this Act shall be transferred
3 without diminution of their rights, benefits, employment, or retirement status.

4 SECTION ~~6~~ 5. AND BE IT FURTHER ENACTED, That, except as expressly
5 provided to the contrary in this Act, any transaction affected by or flowing from any statute
6 added, amended, repealed, or transferred under this Act and validly entered into before the
7 effective date of this Act, and every right, duty, or interest flowing from it remains valid
8 after the effective date of this Act and may be terminated, completed, consummated, or
9 enforced under the law.

10 SECTION ~~7~~ 6. AND BE IT FURTHER ENACTED, That, except as otherwise
11 provided by law, all existing laws, regulations, proposed regulations, standards and
12 guidelines, policies, orders and other directives, forms, plans, memberships, contracts,
13 property, investigations, administrative and judicial responsibilities, rights to sue and be
14 sued, and all other duties and responsibilities associated with the functions of the agencies
15 and units that are subjects of this Act prior to the effective date of this Act shall continue
16 in effect under and, as appropriate, are legal and binding on the State Treasurer until
17 completed, withdrawn, canceled, modified, or otherwise changed.

18 SECTION ~~8~~ 7. AND BE IT FURTHER ENACTED, That the regulations regarding
19 the Maryland 529 Program that were adopted before June 1, 2023, by the Maryland 529
20 Board that do not conflict with the provisions of this Act continue to be in force and effect
21 unless otherwise altered by the State Treasurer.

22 SECTION ~~9~~ 8. AND BE IT FURTHER ENACTED, That, as provided in this Act:

23 (a) The State Treasurer is the successor of the Maryland 529 Board.

24 (b) In every law, executive order, rule, regulation, policy, or document created by
25 an official, an employee, or a unit of this State, the names and titles of those agencies and
26 officials mean the names and titles of the successor agency or official.

27 SECTION ~~10~~ 9. AND BE IT FURTHER ENACTED, That any transaction or
28 employment status affected by or flowing from any change of nomenclature or any statute
29 amended by this Act and validly entered into or existing before the effective date of this Act
30 and every right, duty, or interest flowing from a statute amended by this Act remains valid
31 after the effective date of this Act and may be terminated, completed, consummated, or
32 enforced as required or allowed by any statute amended by this Act as though the
33 amendment had not occurred. If a change in nomenclature involves a change in name or
34 designation of any State unit, the successor unit shall be considered in all respects as
35 having the powers and obligations granted to the former unit.

36 SECTION ~~11~~ 10. AND BE IT FURTHER ENACTED, That:

37 (a) The continuity of every commission, office, department, agency, or other unit
38 is retained.

1 (b) The personnel, records, files, furniture, fixtures, and other properties and all
2 appropriations, credits, assets, liabilities, and obligations of each retained unit are
3 continued as the personnel, records, files, furniture, fixtures, properties, appropriations,
4 credits, assets, liabilities, and obligations of the unit under the laws enacted by this Act.

5 SECTION ~~12~~ 11. AND BE IT FURTHER ENACTED, That:

6 ~~(a) The balance of a Maryland Senator Edward J. Kasemeyer Prepaid College~~
7 ~~Trust account, following the distribution in accordance with Section 1 of this Act, is an~~
8 ~~accurate allocation of principal and earnings of that account.~~

9 ~~(b) The distribution to the account in accordance with Section 1 of this Act a~~
10 settlement as a result of the final determination of any claim submitted in accordance with
11 § 18–1917 of the Education Article, as enacted by Section 1 of this Act:

12 (1) may not be considered a contribution to the account for purposes of
13 provisions of law governing the Maryland income tax; and

14 (2) is exempt from State and local taxes.

15 SECTION ~~13~~ 12. AND BE IT FURTHER ENACTED, That the publisher of the
16 Annotated Code of Maryland, in consultation with and subject to the approval of the
17 Department of Legislative Services, shall correct, with no further action required by the
18 General Assembly, cross-references and terminology rendered incorrect by this Act. The
19 publisher shall adequately describe any correction that is made in an editor's note following
20 the section affected.

21 SECTION 13. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
22 take effect June 1, 2023.

23 SECTION 14. AND BE IT FURTHER ENACTED, That this Act is an emergency
24 measure, is necessary for the immediate preservation of the public health or safety, has
25 been passed by a ye and nay vote supported by three-fifths of all the members elected to
26 each of the two Houses of the General Assembly, and, except as provided in Section 13 of
27 this Act, shall take effect from the date it is enacted.