

SENATE BILL 959

F2, P1

EMERGENCY BILL

3lr3115
CF HB 1290

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**

Introduced and read first time: February 26, 2023

Assigned to: Rules

Re-referred to: Budget and Taxation and Education, Energy, and the Environment, March 3, 2023

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 25, 2023

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
12 College Trust; ~~establishing the Workgroup on the Maryland 529 Prepaid College~~
13 ~~Trust Program; requiring the Workgroup to identify certain policies, procedures, and~~
14 ~~practices and to develop recommendations relating to administering the Maryland~~
15 ~~529 Program; establishing a process for making certain claims against the Maryland~~
16 ~~Prepaid College Trust; providing for the transfer of certain services, appropriations,~~
17 ~~funding, grants, property, records, fixtures, credits, assets, liabilities, obligations,~~
18 ~~rights, and privileges to the Office of the State Treasurer; providing that employees~~
19 ~~transferred to the Office of the State Treasurer as a result of this Act shall be~~
20 ~~transferred without diminution of certain rights, benefits, or employment or~~
21 ~~retirement status; providing for the continuity of certain transactions affected by or~~

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.



1 flowing from this Act; providing for the continuity of certain laws, rules and
 2 regulations, standards and guidelines, policies, orders, and other directives, permits
 3 and license applications, forms, plans, memberships, contracts, agreements,
 4 property, investigations, and administrative and judicial responsibilities; providing
 5 for the appropriate transitional provisions relating to the continuity of certain boards
 6 and other units; and generally relating to Maryland 529 Program reform.

7 BY repealing and reenacting, with amendments,
 8 Article – Education
 9 Section 18–1901, 18–1902.1, 18–1903 through 18–1905, 18–1905.1, 18–1906,
 10 18–1906.1, 18–1907 through 18–1911, 18–1914, 18–1916, 18–19A–01 through
 11 18–19A–03, 18–19A–04.1, 18–19A–05, 18–19A–05.1, 18–19A–07, 18–19B–01
 12 through 18–19B–06, 18–19B–08, 18–19C–01 through 18–19C–03, 18–19C–05,
 13 18–19C–06, 18–19C–08, and 18–19C–09
 14 Annotated Code of Maryland
 15 (2022 Replacement Volume)

16 BY repealing and reenacting, without amendments,
 17 Article – Education
 18 Section 18–1902, 18–1912, 18–1913, 18–1915, 18–19A–04, 18–19A–06,
 19 18–19A–06.1, 18–19B–07, 18–19C–04, 18–19C–07, and 18–19C–10
 20 Annotated Code of Maryland
 21 (2022 Replacement Volume)

22 BY adding to
 23 Article – Education
 24 Section 18–1917
 25 Annotated Code of Maryland
 26 (2022 Replacement Volume)

27 BY repealing and reenacting, with amendments,
 28 Article – State Finance and Procurement
 29 Section 11–203(f)
 30 Annotated Code of Maryland
 31 (2021 Replacement Volume and 2022 Supplement)

32 BY repealing and reenacting, ~~with~~ without amendments,
 33 Article – State Government
 34 Section 9–803(a)(10) ~~and (11)~~
 35 Annotated Code of Maryland
 36 (2021 Replacement Volume and 2022 Supplement)

37 ~~BY adding to~~
 38 ~~Article – State Government~~
 39 ~~Section 9–803(a)(11)~~
 40 ~~Annotated Code of Maryland~~
 41 ~~(2021 Replacement Volume and 2022 Supplement)~~

1 BY repealing and reenacting, with amendments,
2 Article – State Government
3 Section 9–803(a)(11)
4 Annotated Code of Maryland
5 (2021 Replacement Volume and 2022 Supplement)

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

8 **Article – Education**

9 18–1901.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 18–1902.

31 It is the intent of the General Assembly to enhance the accessibility and affordability
32 of higher education for all citizens of the State and for all citizens of the District of Columbia

1 by establishing a method to provide for the prepayment of tuition at eligible institutions of
2 higher education.

3 18–1902.1.

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

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

9 18–1903.

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

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

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

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

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

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

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

24 (2) Bequests, endowments, or funds from any other available private
25 source;

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

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

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

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

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

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

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

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

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

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

21 18–1904.

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

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

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

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

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

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

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

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

2 (2) The State Superintendent of Schools;

3 (3) The State Treasurer;

4 (4) The State Comptroller;

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

6 (6) The Secretary of Disabilities; and

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

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

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

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

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

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

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

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

24 (g) The Governor may remove a public member for incompetence or misconduct.]

25 18–1905.

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

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

29 (c) A member of the Board:

1 (1) May not receive compensation;

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

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

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

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

10 (ii) May employ additional **PROGRAM** staff in accordance with the
11 budget.

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

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

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

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

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

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

28 2. Requires the exercise of discretion and independent
29 judgment; and

30 3. Is not in the executive service.

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

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

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

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

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

14 ~~(2) Sue and be sued FOR CAUSES OF ACTION RELATED TO THE~~
 15 ~~ADMINISTRATION OF THE PROGRAM;~~

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

17 ~~(4)~~ (2) Hold, buy, and sell instruments, obligations, securities, and other
 18 investments consistent with its comprehensive investment plan;

19 ~~(5)~~ (3) Enter into agreements with eligible institutions of higher
 20 education and other public or private entities for the promotion, administration, or
 21 marketing of the Program, the Trust, the Plan, the Broker–Dealer Plan, or the Maryland
 22 ABLE Program;

23 ~~(6)~~ (4) Invest funds not required for immediate disbursement;

24 ~~(7)~~ (5) Solicit and accept gifts, grants, loans, or other aid from any
 25 source or participate in any government program for purposes consistent with this subtitle
 26 and Subtitles 19A, 19B, and 19C of this title;

27 ~~(8)~~ (6) Subject to the review of the General Assembly, impose, collect,
 28 and distribute across Maryland 529 programs reasonable administrative fees for any
 29 transactions under the Trust, the Plan, the Broker–Dealer Plan, or the Maryland ABLE
 30 Program or involving prepaid contracts or transactions affecting the Program, the Trust,
 31 the Plan, the Broker–Dealer Plan, or the Maryland ABLE Program;

32 ~~(9)~~ (7) Procure insurance against any loss of assets of the Program, the
 33 Trust, the Plan, the Broker–Dealer Plan, or the Maryland ABLE Program;

1 ~~(10)~~ **(8)** Endorse insurance coverage written exclusively for the purpose
2 of protecting:

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

5 (ii) An investment account under the Plan, or the Broker–Dealer
6 Plan, and the account holder and qualified designated beneficiary of the investment
7 account; or

8 (iii) An ABLE account under the Maryland ABLE Program and the
9 ABLE account holder;

10 ~~(11)~~ **(9)** Designate terms under which money may be withdrawn from the
11 Program, the Trust, the Plan, the Broker–Dealer Plan, or the Maryland ABLE Program;

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

15 ~~(13)~~ **(11)** Appear ~~on the~~ [Board’s] ~~STATE TREASURER’S own behalf~~
16 before [other] boards, commissions, or other governmental agencies; and

17 ~~(14)~~ **(12)** Take any other action that the [Board] **STATE TREASURER**
18 considers appropriate to implement and administer the Program, the Trust, the Plan, the
19 Broker–Dealer Plan, or the Maryland ABLE Program.

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

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

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

25 18–1905.1.

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

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

30 (ii) The [Board] **STATE TREASURER** shall coordinate with the
31 Board of Trustees of the Maryland Teachers and State Employees Supplemental

1 Retirement Plans and local school systems, respectively, to identify methods to increase
2 participation in Maryland 529 among:

3 1. State employees that participate in other State tax
4 savings programs; and

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

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

14 18-1906.

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

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

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

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

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

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

33 (f) The **[Board] STATE TREASURER** shall make every effort to invest the assets
34 of the Trust in a manner that earns, at a minimum, sufficient earnings to generate the
35 difference between the prepaid amount under prepaid contracts and the average in-State

1 tuition costs at public institutions of higher education in the State at the time that the
2 benefits are exercised.

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

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

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

11 (j) The [Board] STATE TREASURER:

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

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

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

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

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

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

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

25 (4) TO MAKE PAYMENTS TO RESOLVE CLAIMS BROUGHT AGAINST THE
26 TRUST IN ACCORDANCE WITH § 18-1917 OF THIS SUBTITLE.

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

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

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

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

7 18–1906.1.

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

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

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

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

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

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

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

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

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

33 18–1907.

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

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

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

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

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

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

9 (b) A fiduciary shall discharge the fiduciary’s duties with respect to the Trust:

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

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

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

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

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

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

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

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

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

27 (3) Receive any consideration for the fiduciary’s own account from a person
28 dealing with the Trust in connection with a transaction involving the assets of the Trust;
29 or

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

3 18–1908.

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

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

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

9 18–1909.

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

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

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

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

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

18 (2) **ON OR AFTER JUNE 1, 2023, AN ACCOUNT HOLDER MAY NOT**
19 **ENTER INTO** ANY NEW PREPAID CONTRACTS OR EXTEND OR UPGRADE ANY EXISTING
20 PREPAID CONTRACTS UNDER THE TRUST TO PROVIDE FOR THE ADVANCE PAYMENT
21 OF TUITION AT:

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

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

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

25 ~~(IV) ANY COMBINATION OF A COMMUNITY COLLEGE, COLLEGE,~~
26 ~~OR UNIVERSITY.~~

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

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

3 (i) For residency in Maryland, “resident” has the meaning stated in
4 § 10–101 of the Tax – General Article; and

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

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

8 (1) The average current in–State tuition costs at the time the prepaid
9 contract is purchased at public institutions of higher education in the State;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (g) (1) ON OR AFTER JUNE 1, 2023, THE STATE TREASURER MAY NOT
15 ONLY ALLOW THE TRANSFER OF FUNDS FROM ANY OTHER QUALIFIED STATE STATE
16 TUITION PROGRAM TO THE TRUST, IN ACCORDANCE WITH FEDERAL LAW, FOR THE
17 PURPOSE OF CONTRIBUTING FUNDS TOWARDS AN EXISTING CONTRACTUAL
18 OBLIGATION.

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

23 ~~(ii) SUBJECT TO SUBPARAGRAPH (iii) OF THIS PARAGRAPH,~~
24 ~~THE STATE TREASURER SHALL GRANT AN INTEREST PAYMENT TO AN ACCOUNT~~
25 ~~HOLDER WHO, IN ACCORDANCE WITH SUBPARAGRAPH (i) OF THIS PARAGRAPH,~~
26 ~~TRANSFERS FUNDS FROM THE TRUST TO THE PLAN.~~

27 ~~(iii) THE STATE TREASURER SHALL ADOPT REGULATIONS TO~~
28 ~~DETERMINE THE INTEREST RATE FOR PAYMENTS REQUIRED UNDER~~
29 ~~SUBPARAGRAPH (ii) OF THIS PARAGRAPH.~~

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

1 (h) The [Board] **STATE TREASURER** shall allow the transfer of funds from the
2 Trust to any qualified ABLE program established in accordance with § 529A of the Internal
3 Revenue Code.

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

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

11 18–1910.

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

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

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

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

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

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

26 (i) The beneficiary does not attend an institution of higher
27 education;

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

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

31 (2) The time that a qualified beneficiary spends in active duty as a member
32 of the United States armed forces shall be added to the time period allowed to exercise the

1 benefits under a prepaid contract before a termination under paragraph (1) of this
2 subsection.

3 18–1911.

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

6 18–1912.

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

8 18–1913.

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

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

12 18–1914.

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

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

19 18–1915.

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

23 18–1916.

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

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

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

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

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

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

6 1. The annual review of the comprehensive investment plan
7 which shall include:

8 A. The status of the investment program, including
9 investment income matched to projected enrollment costs under the existing prepaid
10 contracts;

11 B. The assets held in each class of investment, the amount of
12 funds held in any cash pool, the amount of funds held in fixed assets investments, and the
13 amount of funds held in equity investments;

14 C. The percentage and dollar value of assets placed with
15 outside managers;

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

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

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

21 A. Salaries, wages, and fringe benefits;

22 B. Technical and special fees;

23 C. Communication;

24 D. Travel;

25 E. Contractual services;

26 F. Supplies and materials;

27 G. Equipment;

28 H. Fixed charges; and

29 I. Other expenses;

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

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

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

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

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

14 **18-1917.**

15 (A) (1) **EXCEPT AS PROVIDED IN PARAGRAPHS (2), (3), AND (4) OF THIS**
16 **SUBSECTION AND NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AN ACCOUNT**
17 **HOLDER OR A QUALIFIED BENEFICIARY MAY FILE A CLAIM ARISING FROM THE**
18 **ADMINISTRATION OF THE TRUST WITH THE STATE TREASURER, AS FIDUCIARY OF**
19 **THE TRUST.**

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

23 (3) **A QUALIFIED BENEFICIARY MAY ONLY FILE A CLAIM RELATED TO**
24 **A DISTRIBUTION THAT WAS MADE TO THE QUALIFIED BENEFICIARY OR TO AN**
25 **ELIGIBLE EDUCATIONAL INSTITUTION ON THE BENEFICIARY'S BEHALF.**

26 (4) **ANY CLAIM BROUGHT UNDER THIS SECTION SHALL BE SUBJECT**
27 **TO THE EXCLUSIONS AND LIMITATIONS SET FORTH IN THIS SUBTITLE.**

28 (B) **A CLAIM FILED IN ACCORDANCE WITH SUBSECTION (A) OF THIS**
29 **SECTION SHALL BE FILED:**

30 (1) **FOR A CLAIM RELATING TO THE UPDATED TERMS INCLUDED IN**
31 **THE DISCLOSURE STATEMENT FOR THE TRUST THAT WENT INTO EFFECT**
32 **NOVEMBER 1, 2021:**

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

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

4 **(2) FOR ALL OTHER CLAIMS, 1 YEAR AFTER THE DATE THE CLAIM**
5 **ARISES.**

6 **(C) A CLAIM UNDER THIS SECTION SHALL:**

7 **(1) CONTAIN A CONCISE STATEMENT OF FACTS THAT SETS FORTH**
8 **THE NATURE OF THE CLAIM;**

9 **(2) STATE THE NAME, ADDRESS, TELEPHONE NUMBER, AND E-MAIL**
10 **ADDRESS, IF ANY, OF THE CLAIMANT;**

11 **(3) STATE THE PREPAID TRUST ACCOUNT NUMBER TO WHICH THE**
12 **CLAIM RELATES;**

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

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

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

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

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

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

25 **(III) NOTIFY THE CLAIMANT, OR THE LEGAL REPRESENTATIVE**
26 **OR COUNSEL FOR THE CLAIMANT, IF ANY, IN WRITING OF THE FINAL**
27 **DETERMINATION.**

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

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

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

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

10 **(I) HAVE SOUGHT DISBURSEMENTS FOR QUALIFIED HIGHER**
11 **EDUCATION EXPENSES BEFORE JUNE 1, 2023; OR**

12 **(II) WILL BE SEEKING DISBURSEMENTS FOR QUALIFIED**
13 **HIGHER EDUCATION EXPENSES FOR THE FALL OF CALENDAR YEAR 2023.**

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

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

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

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

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

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

27 **(I) FINAL; AND**

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

30 **1. THE STATE;**

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

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

3 **4. THE TRUST.**

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

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

7 **(2) IS EXEMPT FROM THE PROVISIONS OF TITLE 10, SUBTITLES 2 AND**
8 **3 OF THE STATE GOVERNMENT ARTICLE.**

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

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

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

16 **(i) FOR CLAIMS BROUGHT IN ACCORDANCE WITH SUBSECTION**
17 **(B)(1) OF THIS SECTION, ESTABLISH PROCEDURES TO IMPLEMENT THE CLAIM**
18 **PROCESS ESTABLISHED IN THIS SECTION FOR THOSE CLAIMS; AND**

19 **(ii) FOR ALL OTHER CLAIMS, ADOPT REGULATIONS FOR THE**
20 **CLAIM PROCESS ESTABLISHED IN THIS SECTION.**

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

23 **(i) THE ESTABLISHMENT OF THE PROCEDURES DESCRIBED IN**
24 **THIS SUBSECTION; AND**

25 **(ii) THE ADOPTION OF REGULATIONS IN ACCORDANCE WITH**
26 **THIS SUBSECTION.**

27 18-19A-01.

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

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

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

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

7 [(e)] (D) “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 [(f)] (E) “Plan” means the Maryland Senator Edward J. Kasemeyer College
12 Investment Plan established under this subtitle.

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

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

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

19 18–19A–02.

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

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

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

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

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

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

- 1 (1) Application procedures for participation in the Plan;
- 2 (2) Start-up costs incurred by the State for the development of the Plan
3 with these costs to be reimbursed to the State by the Plan;
- 4 (3) Early withdrawals, so that there will be no major detriment to the
5 remaining account holders in the Plan;
- 6 (4) The State contribution program;
- 7 (5) Transfer of funds from the Plan to other qualified ~~State~~ **STATE** tuition
8 programs and from other qualified ~~State~~ **STATE** tuition programs to the Plan in accordance
9 with federal law; and
- 10 (6) Transfer of funds from the Plan to a qualified ABLE program
11 established in accordance with § 529A of the Internal Revenue Code.
- 12 (f) At least annually, the [Board] **STATE TREASURER** shall issue to each
13 account holder a statement that provides a separate accounting for each qualified
14 designated beneficiary providing the following information with respect to each account:
- 15 (1) The beginning balance;
- 16 (2) Contributions to the account, including any State contribution;
- 17 (3) Withdrawals from the account during the previous year; and
- 18 (4) Ending investment account value.
- 19 18-19A-03.
- 20 (a) (1) The [Board] **STATE TREASURER** may issue requests for proposals to
21 evaluate and determine the means for the administration, management, promotion, or
22 marketing of the Plan.
- 23 (2) The [Board] **STATE TREASURER** shall consider proposals that meet
24 the following criteria:
- 25 (i) Ability to develop and administer an investment program of a
26 nature similar to the objectives of the Plan;
- 27 (ii) Ability to administer financial programs with individual account
28 records and reporting;
- 29 (iii) Ability to market the Plan to Maryland residents;
- 30 (iv) Ability to market the Plan to nonresidents of Maryland; and

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

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

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

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

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

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

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

20 (e) (1) The Plan:

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

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

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

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

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

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

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

3 18-19A-04.

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

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

7 18-19A-04.1.

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

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

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

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

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

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

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

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

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

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

30 (i) An application form that:

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

3 2. Allows for certification of Maryland residency;

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

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

7 (c) (1) For an account holder with Maryland adjusted gross income of less than
8 \$50,000 for an individual or \$75,000 for a married couple filing a joint return who
9 contributes at least \$25 per beneficiary during the contribution period in subsection (e) of
10 this section, the State shall provide an additional \$500 per beneficiary.

11 (2) For an account holder with Maryland adjusted gross income of at least
12 \$50,000 but less than \$87,500 for an individual or at least \$75,000 but less than \$125,000
13 for a married couple filing a joint return who contributes at least \$100 per beneficiary
14 during the contribution period in subsection (e) of this section, the State shall provide an
15 additional \$500 per beneficiary.

16 (3) For an account holder with Maryland adjusted gross income of at least
17 \$87,500 but no greater than \$112,500 for an individual or at least \$125,000 but no greater
18 than \$175,000 for a married couple filing a joint return who contributes at least \$250 per
19 beneficiary during the contribution period in subsection (e) of this section, the State shall
20 provide an additional \$250 per beneficiary.

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

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

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

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

27 (i) Provide contributions in the order in which applications are
28 received; and

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

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

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

3 (f) (1) An account holder is not eligible for the subtraction modification under
4 § 10–208 of the Tax – General Article for any taxable year in which the account holder
5 receives a State contribution.

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

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

11 (2) The outreach and marketing plan shall:

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

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

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

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

21 18–19A–05.

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

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

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

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

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

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

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

9 18–19A–05.1.

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

12 18–19A–06.

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

15 18–19A–06.1.

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 investment account or any asset of the Plan.

19 18–19A–07.

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

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

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

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

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

29 A. The status of the investment program;

- 1 B. The assets held in each class of investment;
- 2 C. The percentage and dollar value of assets placed with
3 outside managers;
- 4 D. The income produced by each class of investment;
- 5 E. The income produced by each investment manager;
- 6 F. The total deposits into the Plan for the past year; and
- 7 G. The total withdrawals from the Plan for the past year; and

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

- 11 A. Salaries, wages, and fringe benefits;
- 12 B. Technical and special fees;
- 13 C. Communication;
- 14 D. Travel;
- 15 E. Contractual services;
- 16 F. Supplies and materials;
- 17 G. Equipment;
- 18 H. Fixed charges; and
- 19 I. Other expenses;

20 (ii) The number of new account holders during the previous fiscal
21 year;

22 (iii) Efforts in marketing the Plan; and

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

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

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

5 18–19B–01.

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

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

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

11 (d)] “Broker–Dealer Plan” means the Maryland Broker–Dealer College
12 Investment Plan established under this subtitle.

13 [(e)] **(D)** “Eligible educational institution” has the meaning stated in § 529(e) of
14 the Internal Revenue Code.

15 [(f)] **(E)** “Investment account” means an account established by an account
16 holder under this subtitle on behalf of a qualified designated beneficiary for the purpose of
17 applying distributions toward qualified higher education expenses at eligible educational
18 institutions.

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

21 [(h)] **(G)** “Qualified higher education expenses” has the meaning stated in §
22 529(e) of the Internal Revenue Code.

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

25 18–19B–02.

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

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

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

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

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

7 (i) Enrollment procedures for participation in the Broker–Dealer
8 Plan;

9 (ii) Start–up costs incurred by the State for the development of the
10 Broker–Dealer Plan with these costs to be reimbursed to the State by the Broker–Dealer
11 Plan;

12 (iii) Early withdrawals so that there will be no major detriment to
13 the remaining account holders in the Broker–Dealer Plan;

14 (iv) Transfer of funds from the Broker–Dealer Plan to other qualified
15 State tuition programs and from other qualified State tuition programs to the
16 Broker–Dealer Plan in accordance with federal law; and

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

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

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

25 (1) The beginning balance;

26 (2) Contributions to the account;

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

28 (4) Ending investment account value.

29 18–19B–03.

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 Broker–Dealer Plan.

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 Broker–Dealer Plan;

8 (ii) Ability to administer financial programs with individual account
9 records and reporting; and

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

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

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

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

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

21 (3) The Broker–Dealer Plan shall include provisions for automatic
22 contributions.

23 (d) (1) The Broker–Dealer Plan:

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

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

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

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

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

3 18–19B–04.

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

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

7 18–19B–05.

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

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

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

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

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

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

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

28 18–19B–06.

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

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

1 18–19B–07.

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

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

5 18–19B–08.

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

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

10 18–19C–01.

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

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

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

16 (d) “ABLE account holder” means an individual who has established an account
17 described under § 529A(e) of the Internal Revenue Code and is the designated beneficiary
18 of the account.

19 (e) **["Board"]** means the Maryland 529 Board established under § 18–1904 of this
20 title.

21 (f) **["Designated beneficiary"]** means an individual described in § 529A(e) of the
22 Internal Revenue Code.

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

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

27 18–19C–02.

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

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

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

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

7 (2) Provide secure funding for disability-related expenses on behalf of
8 designated beneficiaries with disabilities that will supplement, not supplant, benefits
9 provided through private insurance, the Medicaid program under Title XIX of the Social
10 Security Act, the Supplemental Security Income program under Title XVI of the Social
11 Security Act, the beneficiary's employment, and any other source.

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

14 (2) The [Board] **STATE TREASURER** shall administer the Maryland
15 ABLE Program in compliance with Internal Revenue Service standards for qualified ABLE
16 programs.

17 (3) The [Board] **STATE TREASURER** shall work in consultation with the
18 Department of Disabilities to ~~develop,~~ administer, manage, and promote the Maryland
19 ABLE Program.

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

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

25 ~~(i)~~ ~~Enrollment~~ ENROLLMENT for participation in the Maryland
26 ABLE Program; ~~and~~

27 ~~(ii)~~ ~~Start-up costs incurred by the State for the development of the~~
28 ~~Maryland ABLE Program with these costs to be reimbursed to the State by the Maryland~~
29 ~~ABLE Program.~~

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

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

4 (1) The beginning balance;

5 (2) Contributions to the account;

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

7 (4) Ending ABLE account value.

8 18–19C–03.

9 (a) (1) The [Board] **STATE TREASURER** may issue requests for proposals to
10 evaluate and determine the means for the administration, management, promotion, or
11 marketing of the Maryland ABLE Program.

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

14 (i) Ability to develop and administer an investment program of a
15 nature similar to the objectives of the Maryland ABLE Program;

16 (ii) Ability to administer financial programs with individual account
17 records and reporting; and

18 (iii) Ability to market the Maryland ABLE Program to eligible
19 individuals.

20 (b) (1) The [Board] **STATE TREASURER** may require an initial enrollment fee
21 to be used for administrative costs of the Maryland ABLE Program.

22 (2) The [Board] **STATE TREASURER** may require additional reasonable
23 fees associated with the expenses of the Maryland ABLE Program.

24 (c) (1) The Maryland ABLE Program is subject to the provisions of § 529A of
25 the Internal Revenue Code.

26 (2) The Maryland ABLE Program shall include provisions for automatic
27 contributions.

28 (3) Money and assets in the accounts established under the Maryland
29 ABLE Program or an ABLE program in any other state may not be considered for the
30 purpose of determining eligibility to receive, or the amount of, any assistance or benefits
31 from local or State means–tested programs.

1 (4) Money and assets contributed in each calendar year to the account of
2 each ABLE account holder may not exceed the amount specified in § 529A(b)(2) of the
3 Internal Revenue Code for each calendar year in which the taxable year begins.

4 (5) Contributions to the account of each ABLE account holder may not
5 exceed the maximum amount determined by the [Board] **STATE TREASURER** to be in
6 accordance with § 529A(b)(6) of the Internal Revenue Code.

7 (d) The Maryland ABLE Program may receive money from:

8 (1) Appropriations in the State budget;

9 (2) Reasonable fees assessed to beneficiaries;

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

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

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

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

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

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

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

21 (2) The Maryland ABLE Program may be divided into multiple investment
22 options.

23 18–19C–04.

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

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

28 18–19C–05.

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

5 (2) The [Board] **STATE TREASURER** may not 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 Maryland ABLE Program or to make any
8 appropriation for the payment of the debts and obligations of the Maryland ABLE Program.

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

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

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

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

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

20 18–19C–06.

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

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

26 18–19C–07.

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

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

30 18–19C–08.

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

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

3 18–19C–09.

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

6 (b) If the contribution of an ABLE account contributor under the Maryland ABLE
7 Program would result in aggregate contributions from all contributors to the ABLE account
8 for the taxable year exceeding the amount specified in § 529A(b)(2) of the Internal Revenue
9 Code for each calendar year in which the taxable year begins, the [Board] **STATE**
10 **TREASURER** shall issue a refund to the ABLE account contributor.

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

14 18–19C–10.

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

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

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

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

23 **Article – State Finance and Procurement**

24 11–203.

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

27 (1) services of managers to invest the assets of the Maryland Senator
28 Edward J. Kasemeyer Prepaid College Trust in accordance with the comprehensive
29 investment plan adopted by the [Maryland 529 Board] **STATE TREASURER** under §
30 18–1906 of the Education Article; and

31 (2) expenditures to manage, maintain, and enhance the value of the assets
32 of the Maryland Senator Edward J. Kasemeyer Prepaid College Trust in accordance with

1 the comprehensive investment plan adopted by the [Maryland 529 Board] STATE
 2 TREASURER under § 18–1906 of the Education Article.

3 **Article – State Government**

4 9–803.

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

6 (10) the Secretary of Higher Education, or the Secretary’s designee; ~~and~~

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

9 ~~[(11)] (12)~~ the following members, appointed by the Governor:

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

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

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

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

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

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

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

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

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

26 [(x)] (IX) one licensed mortgage broker holding the Maryland
 27 Association of Mortgage Brokers’ “Lending Seal of Integrity”;

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

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

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

5 (a) ~~There is a Workgroup on the Maryland 529 Prepaid College Trust Program.~~

6 (b) ~~The Workgroup consists of the following members:~~

7 (1) ~~the State Treasurer;~~

8 (2) ~~two Maryland 529 account holders who have experienced issues~~
9 ~~accessing their funds, appointed by the Governor;~~

10 (3) ~~two members of the Senate of Maryland, appointed by the President of~~
11 ~~the Senate; and~~

12 (4) ~~two members of the House of Delegates, appointed by the Speaker of~~
13 ~~the House.~~

14 (c) ~~The State Treasurer shall provide staff for the Workgroup.~~

15 (d) ~~The Workgroup shall elect a chair of the Workgroup by a majority vote at the~~
16 ~~first meeting.~~

17 (e) ~~A member of the Workgroup:~~

18 (1) ~~may not receive compensation as a member of the Workgroup; but~~

19 (2) ~~is entitled to reimbursement for expenses under the Standard State~~
20 ~~Travel Regulations, as provided in the State budget.~~

21 (f) ~~The Workgroup shall:~~

22 (1) ~~identify policies, procedures, and practices that led to issues relating to~~
23 ~~the earnings calculation formula and Maryland 529 account holders' inability to access~~
24 ~~their prepaid college trust benefits to pay for college expenses; and~~

25 (2) ~~develop and make recommendations for improvement in:~~

26 (i) ~~the Maryland 529 policies, procedures, and practices to ensure~~
27 ~~the prevention of similar issues in the future;~~

28 (ii) ~~communication and transparency for Maryland 529 account~~
29 ~~holders; and~~

1 ~~(iii) accountability for the individuals responsible for properly~~
2 ~~exercising Maryland 529's fiduciary responsibility and managing the prepaid college trust~~
3 ~~to meet its contractual obligations.~~

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

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

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

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

13 (b) (1) All appropriations, including State and federal funds, held by the
14 agencies and units of the State to carry out the functions, programs, and services
15 transferred under this Act shall be transferred to the Office of the State Treasurer on June
16 1, 2023.

17 (2) Funding for the services and programs under the Maryland 529
18 Program shall be provided for the Office of the State Treasurer beginning in the fiscal year
19 2025 State budget.

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

22 (c) Before June 1, 2023:

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

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

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

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

32 ~~(e)~~ (d) On June 1, 2023, all of the functions, powers, duties, books and records
33 (including electronic records), real and personal property, equipment, fixtures, assets,

1 liabilities, obligations, credits, rights, and privileges of the agencies, units, and entities that
2 are transferred under this Act shall be transferred to the Office of the State Treasurer.

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

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

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

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

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

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

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

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

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

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

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

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

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

11 ~~(b) The distribution to the account in accordance with Section 1 of this Act a~~
12 ~~settlement as a result of the final determination of any claim submitted in accordance with~~
13 ~~§ 18-1917 of the Education Article, as enacted by Section 1 of this Act:~~

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

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

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

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

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