

**Department of Legislative Services**  
 Maryland General Assembly  
 2023 Session

**FISCAL AND POLICY NOTE**  
**Enrolled - Revised**

Senate Bill 959

(Senator Benson, *et al.*)

Budget and Taxation and Education, Energy,  
 and the Environment

Appropriations

**Higher Education - Maryland 529 Program - Reform**

This emergency bill, beginning June 1, 2023, transfers administration of the Maryland 529 Program from the Maryland 529 Board to the State Treasurer, abolishes the Maryland 529 Board, and makes conforming changes to specify that the State Treasurer must perform all duties previously performed by the board. The bill also phases out the Maryland Senator Edward J. Kasemeyer Prepaid College Trust (MPCT) by establishing that, beginning June 1, 2023, no new MPCT accounts may be created, either directly or via rollover. The bill also requires the State Treasurer to establish claims resolution processes as specified.

**Fiscal Summary**

**State Effect:** Beginning in FY 2023, nonbudgeted revenues and expenditures shift to the State Treasurer’s Office (STO). General fund expenditures for certain related costs (that had been received as nonbudgeted funds by the Maryland 529 Board) remain budgeted in the Maryland Higher Education Commission (MHEC). Beginning in FY 2024, all such funding is recognized in the STO budget as special funds (for administrative costs from program fees) and reimbursable funds (for funding from MHEC); the shifts to STO are shown below in a consolidated entry and funding is assumed to stay at the FY 2024 level in the out-years. STO general fund expenditures increase by \$6.7 million, as budgeted, in FY 2024 for positions and resources to implement the transition, necessitating additional general fund expenditures in the out-years (not quantified below). Current MPCT funds can cover settlements resulting from claims. Any settlements are exempt from State taxes.

(\$ in millions)	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
SF/ReimB/NonBud Rev.	-	\$17.0	\$17.0	\$17.0	\$17.0
NonBud Rev.	(-)	(\$17.0)	(\$17.0)	(\$17.0)	(\$17.0)
GF Expenditure	\$0.0	\$6.7	-	-	-
SF/ReimB/NonBud Exp.	-	\$17.0	\$17.0	\$17.0	\$17.0
NonBud Exp.	(-)	(\$17.0)	(\$17.0)	(\$17.0)	(\$17.0)
Net Effect	\$0.0	(\$6.7)	(\$-)	(\$-)	(\$-)

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

**Local Effect:** Local revenues may minimally increase from foregone income tax deductions for contributions to MPCT accounts, as discussed below. Any settlements are exempt from local taxes. Expenditures are unaffected.

**Small Business Effect:** None.

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## Analysis

### Bill Summary:

#### *Maryland 529 Program Transfer*

Effective June 1, 2023, the bill transfers the Maryland 529 Program, including all administrative facets of MPCT, the Maryland Senator Edward J. Kasemeyer College Investment Plan (MCIP) and related State matching contributions (Save4College), the Maryland Achieving a Better Life Experience (ABLE) Program, and the statutorily authorized but unestablished Maryland Broker-Dealer College Investment Plan from the Maryland 529 Board to the State Treasurer.

On June 1, 2023, the Maryland 529 Board is abolished, and the State Treasurer – as the successor of the board – assumes fiduciary duties and responsibility for administering the Maryland 529 Program. Additionally, all appropriations, including State and federal funds held by agencies and units of the State to carry out the functions, programs, and services transferred under the bill, are transferred to STO. The transfer includes all employees, functions, powers, duties, books and records, real and personal property, equipment, fixtures, assets, liabilities, obligations, credits, rights, and privileges of Maryland 529. All employees transferred to STO must be transferred without diminution of their rights, benefits, employment, or retirement status. Any transaction affected by the transition remains valid after the transition.

Prior to the transfer, the bill requires the Maryland 529 Board and its staff to fully cooperate in a timely manner with all requests from the State Treasurer related to the transition, including requests to inspect records and documents and receive information or services from outside service providers engaged by the board. The State Treasurer may take any action deemed necessary or appropriate to prepare for the transfer of the administration of the Maryland 529 Program to STO.

All existing laws, regulations, and other mandates or responsibilities continue in effect and are legally binding on the State Treasurer until otherwise ended. Any regulations adopted by the Maryland 529 Board prior to June 1, 2023, continue to be in force and effect unless otherwise altered by the State Treasurer.

Effective June 1, 2023, the bill also alters some responsibilities of the State Treasurer relative to the responsibilities of the board under current law. Instead of an executive director of Maryland 529, the State Treasurer must appoint a deputy treasurer to administer the program. The State Treasurer may delegate, wholly or partly, the exercise of fiduciary duties related to MPCT and contract for support services necessary to carry out the State Treasurer's fiduciary duties related to MPCT. The bill clarifies the duties of the State Treasurer such that, in assuming the duties of the Maryland 529 Board, the State Treasurer no longer must *develop* a marketing plan or *develop* the Maryland ABLE program and instead must merely *utilize* a marketing strategy for 529 programs and *administer, manage, and promote* ABLE. The bill also repeals language specifying that the board must adopt procedures relating to start-up costs incurred by the State for the development of ABLE with these costs to be reimbursed to the State by ABLE. Under the bill, the State Treasurer must allow the transfer of funds from MPCT to any qualified ABLE account *notwithstanding any other provision of law*. The bill further enumerates additional responsibilities beyond those of the Maryland 529 Board under current law related specifically to new claims resolution processes and the wind down of MPCT, as described below.

#### *Claims Against the Maryland Senator Edward J. Kasemeyer Prepaid College Trust*

The bill authorizes the State Treasurer to make payments to resolve claims brought against MPCT. An account holder or qualified beneficiary may file a claim arising from the administration of MPCT, with the State Treasurer as fiduciary of MPCT. The bill specifies requirements relating to the updated terms included in the disclosure statement for MPCT that went into effect November 1, 2021, and for all other claims. A claim may be filed only by an account holder or a qualified beneficiary for an account that was open and existing on or after November 1, 2021; a qualified beneficiary may only do so for a distribution made either to the qualified beneficiary or to an eligible educational institution on the beneficiary's behalf. Both types of claims are subject to certain exclusions and limitations described below.

The State Treasurer must *establish procedures* to implement the claims process for claims relating to the specified disclosure statement and must *adopt regulations* for processing all other claims. Within 10 business days of the establishment of the procedures or the adoption of regulations, the State Treasurer must provide notice to account holders.

#### *Timeline for Filing of Claims and Requirements for Submission*

Claims relating to the updated terms included in the specified disclosure statement must be made within a relatively narrow window: no sooner than the date the State Treasurer notifies account holders of the procedures established for such claims and no later than

December 31, 2023. All other claims must be filed within one year after the date the claim arises.

Both types of claims must contain certain information, including (1) a concise statement of facts; (2) specified contact information of the claimant and legal representative or counsel for the claimant (if any); (3) the MPCT account number to which the claim relates; (4) any other information required by the State Treasurer; and (5) the signature of the claimant or the legal representative or counsel for the claimant.

#### *State Treasurer Responsibilities and Authorities*

The bill establishes the responsibilities and authorities of the State Treasurer regarding claims, including the responsibility to:

- investigate claims;
- make final determinations on claims, as fiduciary, and approve or deny claims in whole or in part;
- notify claimants or their representatives in writing of the final determination;
- make final determinations independently, in the State Treasurer's role as fiduciary to MPCT, and solely considering the interests of all account holders and qualified beneficiaries; and
- adopt regulations/procedures and provide specified notice of claims processes to account holders.

The bill grants the State Treasurer the authority, in the exercise of fiduciary duties, to (1) delegate responsibility, in whole or part, over claims investigation, approval or denial of claims, and notification of claimants of final determination so long as any such delegate is a fiduciary with respect to making final determinations and (2) contract for any needed support services. The State Treasurer, as fiduciary of MPCT, is exempt from the Administrative Procedure Act provisions related to procedures for contested cases and declaratory rulings (Title 10, Subtitles 2 and 3 of the State Government Article).

#### *Claimant Priority Established*

For claims relating to the updated terms included in the specified disclosure statement, the State Treasurer must prioritize processing the claims of account holders who have sought distributions for qualified higher education expenses before June 1, 2023, or who will seek distributions for qualified higher education expenses for fall 2023.

### *Settlements Are Final*

The processes specified in the bill represent the exclusive remedy for a claim against MPCT, and any claim made arising from the administration of MPCT must be made solely against the assets of MPCT. With respect to claims relating to the updated terms included in the specified disclosure statement, acceptance must be conditioned on agreement of the account holder to transfer all funds in the account to any other qualified state tuition program. All settlements are final, and a complete release of each claim arising from the administration of MPCT against the State, each of its units, all State personnel, and MPCT. Settlements may not be considered a contribution to the account for the purposes of State income taxes and are exempt from State and local taxes.

### *Phase-out of the Maryland Senator Edward J. Kasemeyer Prepaid College Trust*

Beginning June 1, 2023, the State Treasurer may not establish new prepaid contracts or extend or upgrade any existing prepaid contracts under MPCT nor may any account holder enter into new prepaid contracts or extend or upgrade any existing prepaid contracts under MPCT. Also beginning June 1, 2023, the State Treasurer may only allow the transfer of funds from any other qualified state tuition program into an MPCT account for the purpose of contributing funds toward an existing contractual obligation.

Although no new MPCT accounts may be opened on or after June 1, 2023, the State Treasurer must still allow accounts to be rolled over from MPCT and transferred to any other qualified tuition program.

### *Financial Education and Capability Commission*

The bill conforms the membership of the Financial Education and Capability Commission to the bill's changes by removing a Maryland 529 Board member from the commission. Instead, the bill adds the Secretary of Disabilities or the Secretary's designee to the Financial Education and Capability Commission.

### *Conforming Changes*

The bill requires that the publisher of the Annotated Code of Maryland, in consultation with and subject to the approval of the Department of Legislative Services (DLS), correct, with no further action required by the General Assembly, cross-references and terminology rendered incorrect by the bill. Any corrections made must be adequately described in an editor's note following the affected section.

## **Current Law:**

### *Maryland 529*

The Maryland 529 Board consists of 11 members, 6 of whom serve by virtue of the State office they hold: the State Treasurer; the State Comptroller; the Secretary of Higher Education; the State Superintendent of Schools; the Chancellor of the University System of Maryland; and the Secretary of Disabilities. The other 5 members are appointed by the Governor.

Maryland 529 currently offers three savings plans: one savings plan for individuals with disabilities; and two savings plans for higher education expenses. The savings plan for individuals with disabilities is the Maryland ABLE Program, which allows certain individuals with disabilities to save for qualified disability expenses. Of the two savings plans for higher education, one is a defined benefit plan called MPCT, and the other is an investment plan called MCIP. Generally, funds in the plans may only be used for qualified education expenses, which historically meant certain expenses related to higher education. However, under the federal Tax Cuts and Jobs Act of 2017, the investment plan may be used to pay for tuition expenses at K-12 public, private, and parochial schools. Both higher education savings plans (MPCT and MCIP) are also known as 529 plans after the section in the Internal Revenue Code that allows an individual to either prepay or contribute to an account established for paying a student's qualified education expenses at an eligible educational institution.

As of fiscal 2022, MPCT had 27,683 total accounts with 1,152 new enrollments that fiscal year, representing a total of \$1.1 billion in investment holdings by MPCT. As of fiscal 2022, MCIP had 270,482 total beneficiaries with 37,567 new accounts opened that fiscal year for a total of \$7.8 billion in investment holdings. As of fiscal 2022, Maryland ABLE had 4,937 total beneficiaries with total assets under management of \$50.5 million.

State income tax deductions are available independently for both qualified tuition plans (MPCT and MCIP) and ABLE accounts, generally for up to \$2,500 per contributor per year. MCIP accounts established after December 31, 2016, are also eligible for a State matching contribution under specified conditions, as described below. An investment account holder may not claim an income tax deduction in the same year that a State match is received.

### *Maryland Senator Edward J. Kasemeyer Prepaid College Trust*

MPCT allows interested persons, on behalf of a child, to prepay the cost of higher education tuition and mandatory fees by purchasing a contract based on the current weighted average

tuition and mandatory fees at Maryland public institutions of higher education, the selected payment plan, the number of years until the child enters college, and other factors.

Each account holder enters into a contract with MPCT for prepayment of tuition and mandatory fees for a specified number of years of community college and/or semesters or years of university tuition. Payments may be made in single, monthly, or annual installments. For a child enrolled in a Maryland public institution of higher education, MPCT will pay the full in-state tuition and mandatory fees. If a child attends an eligible private or out-of-state institution of higher education, MPCT will pay up to the calculated weighted average tuition of the tuition plan selected or the calculated minimum benefit, whichever is greater. Calculated minimum benefits are generally the amount paid into the account, less any operating fees plus a certain rate of return.

#### *Maryland Senator Edward J. Kasemeyer College Investment Program*

MCIP allows contributions to an investment account established to provide for tuition, fees, books, supplies, equipment, and room and board for a designated beneficiary. Under the plan, participants accept a level of investment based on their selected investment option. Account values in the investment plan are based solely on contributions and investment performance and are not guaranteed by the State.

The plan began in December 2001 and is open to children or adults of any age. Enrollment is open year-round, and investors may choose how much and how often they wish to contribute. Contributions and investment earnings are available for eligible higher education expenses, including tuition, fees, room and board, and other expenses as defined by Section 529 of the Internal Revenue Code. In 2017, the U.S. Congress passed a new tax reform measure that expanded eligible costs for 529 plans to distributions of up to \$10,000 per beneficiary per year for tuition at elementary or secondary public, private, or religious schools; trade/technical schools; or certified apprenticeship programs.

#### *Maryland College Investment Plan State Matching Contributions*

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

- the qualified beneficiary of the investment account is a Maryland resident younger than age 26 in the calendar year before the account holder submits an application;
- the account holder is at least 18 years old for applications filed on or after January 1, 2022;
- the account holder (for example, a parent) is also a resident of Maryland and files income taxes on or before July 15 of each year;

- the account holder submits an application to the Maryland 529 Board or its designee between January 1 and June 1 of each year; and
- the account holder has Maryland adjusted gross income in the previous taxable year no greater than \$112,500 for an individual or \$175,000 for a married couple filing a joint return.

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

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

#### *Maryland Achieving a Better Life Experience Program*

The Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 established a new § 529A of the Internal Revenue Code that permits a state (or a state agency or instrumentality) to establish and maintain another type of tax-advantaged savings program, a qualified ABLÉ program, under which contributions may be made to an account that is established for the purpose of meeting the qualified disability expenses of the designated beneficiary of the account. Chapter 39 of 2016 required the Maryland 529 Board, in consultation with the Maryland Department of Disabilities, to establish, administer, manage, and promote the Maryland ABLÉ Program. State programs must adhere to minimum federal guidelines to be considered qualified ABLÉ programs under federal law. Individuals with qualified disabilities for whom the onset of the disability occurred prior to age 26 are considered “eligible individuals” under Internal Revenue Service (IRS) regulations. Eligible individuals who establish an ABLÉ account (or have an ABLÉ account established on their behalf) are the owner of such an account and are “designated beneficiaries” under IRS regulations.

#### *Maryland Broker-Dealer College Investment Plan*

In 2008, the Maryland 529 Board was given the authority to establish a Maryland Broker-Dealer College Investment Plan, which would allow Maryland families who invest through private investment advisors to participate in a Maryland college savings plan; however, the Maryland 529 Board has not implemented a broker-dealer plan.



## *Financial Education and Capability Commission*

Chapters 519 and 520 of 2012 created the Financial Education and Capability Commission to (1) monitor the implementation of public and private initiatives to improve the financial education and capability of residents of the State and (2) make recommendations on the coordination of financial education and capability efforts across State agencies. The commission is required to annually report to the Governor and the General Assembly, by December 1, on its recommendations and the status of the State's efforts to improve the financial education and capability of residents of the State. The Maryland Creating Assets, Savings, and Hope Campaign provides staff for the commission.

### **State Fiscal Effect:**

#### *Maryland 529 Program Transition*

Revenues and expenditures for the Maryland 529 Board have not been included in the budget each year (although anticipated funding is reflected in the Governor's Budget Books). As the program does receive some general funds, which must be appropriated in the budget, that funding has been included in the budget for MHEC. It is then received by the Maryland 529 Board as nonbudgeted revenues for expenditure. Accordingly, nonbudgeted revenues and expenditures for the Maryland 529 Board decrease beginning in fiscal 2023.

STO revenues and expenditures increase correspondingly; however, for the remainder of fiscal 2023, it is unclear whether these funds will continue to be treated as nonbudgeted within STO or as reflected in the fiscal 2024 budget as passed by the General Assembly – generally with funding for administrative costs treated as special funds, and general funds (still appropriated in MHEC's budget) treated as reimbursable funds. Although the accounting for program funding changes, there is no net fiscal impact from the accounting shift.

Further, the exact amount of funding related to the administration of Maryland 529 (including the ABLE Program) to be transferred in fiscal 2023 (on June 1, 2023) is unknown; for context, total administrative funding for the entire fiscal year is \$6.3 million in nonbudgeted operating expenditures to administer MPCT and MCIP (all from account holder fees) and another \$453,539 for the Maryland ABLE Program (\$109,392 from account holder fees, supplemented by \$344,157 in general fund expenditures through MHEC – all treated as nonbudgeted by the Maryland 529 Board). Another \$11.0 million is budgeted as general funds in MHEC for the State's matching contributions for Save4College and, likewise, is received by the Maryland 529 Board as nonbudgeted funds. Along with the residual portion of these funds for the last month of the fiscal year, the

Maryland 529 staff are transferred to STO (15 regular full-time employees and 2.24 full-time equivalent contractual employees).

For fiscal 2024 (and possibly future years as assumed in this analysis), general funds budgeted within MHEC to support administration of the ABLE Program and the State's contributions for Save4College (\$300,000 and \$11.0 million, respectively) remain budgeted there and are received as reimbursable funds by STO. General fund appropriations are assumed to continue at those levels in fiscal 2025 and annually thereafter. Should the funds be appropriated directly to STO in future years, reimbursable revenues and expenditures are no longer necessary.

The fiscal 2024 budget as passed by the General Assembly provides for the transfer of nonbudgeted administrative expenditures (\$5.5 million for MPCT and MCIP and another \$196,000 for ABLE, not factoring in the general fund portion, which is accounted for above) to STO and establishes the positions associated with Maryland 529 employees as being in STO, contingent on the enactment of this bill or its cross file (Senate Bill 959 or House Bill 1290). Also as noted above, beginning in fiscal 2024, the administrative costs associated with the program are run through the budget and treated as special funds within STO rather than remain as nonbudgeted. (Although not specified as such in the fiscal 2024 budget, the ABLE funding is assumed to be treated the same way.) This analysis also assumes the revenues from fees assessed account holders continue to support the operating expenditures for Maryland 529 administration in STO in the out-years.

Additional costs due to the bill are recognized in the budget, however. Specifically, the fiscal 2024 budget as passed by the General Assembly includes a general fund appropriation of \$6.7 million for positions and resources to implement the transition of the Maryland 529 program to STO, contingent on the enactment of this bill or its cross file (Senate Bill 959 or House Bill 1290).

#### *Additional State Treasurer's Office Expenses*

As the bill effectuates the contingent appropriation, general fund expenditures increase by \$6.7 million in fiscal 2024. Funds not expended for positions and resources to implement the transition may not be transferred by budget amendment or otherwise to any other purpose and revert to the general fund. Accordingly, the entire \$6.7 million is assumed to be spent for these purposes, including the administrative costs for settlement of claims, in fiscal 2024. Further, the fiscal 2024 budget as passed by the General Assembly authorizes eight new positions for STO, also contingent on this bill or its cross file; the new positions are to be funded within the \$6.7 million contingent appropriation.

This analysis assumes STO fills the eight authorized positions as expeditiously as possible: one program manager, one administrator, four treasury professionals, one treasury

professional specialist, and one information technology (IT) systems technical specialist. Costs for these positions approach \$900,000 in fiscal 2024. In addition, other costs for STO are incurred to improve administration following the transfer. STO may contract for support services in fiscal 2024, specifically with regards to the claims processes as authorized in the bill. Since individuals must make a claim related to the disclosure statement that went out November 1, 2021, by December 31, 2023, STO likely needs assistance in handling customer service, contract management, legal services, and marketing. Moreover, the ongoing settlement resolution process required by the bill necessitates additional expenditures and, potentially, as authorized by the bill, use of a third-party administrator to provide any needed support services.

Should STO elect to move existing Maryland 529 staff to be physically collocated at STO, one-time costs are incurred. Any such move is assumed to be deferred to fiscal 2024, however, and funded within the \$6.7 million general fund appropriation.

It is unclear whether a portion of this funding will also be used to bolster STO's legacy IT system, which STO advises needs to be updated, as the fiscal 2024 budget as passed by the General Assembly also includes another \$1.8 million for funding a financial systems modernization IT project (which is not contingent on this bill and has not been factored into the analysis).

General fund expenditures are assumed to be used to continue to fund the new positions in fiscal 2025 and beyond and the costs for the positions range from approximately \$810,000 in fiscal 2025 to \$930,000 in fiscal 2028. Other costs, which cannot be reliably estimated at this time, may continue as well.

#### *Other Effects of Phasing Out the Maryland Senator Edward J. Kasemeyer Prepaid College Trust*

Nonbudgeted revenues from account fees and expenditures associated with administering MPCT decrease beginning in fiscal 2023 as the bill prohibits any new accounts from being opened on or after June 1, 2023. The exact size of the impact is unknown but is likely minimal in the short term and depends on the total number of claims settled (since a condition of settlement is the rollover of accounts into another qualified tuition program) and any voluntary rollovers of MPCT accounts induced by news of the program's wind down. For context, as of March 29, 2024, Maryland 529 has completed manual reviews for 702 of 797 requests related to the disclosure statement for MPCT that went into effect November 1, 2021, though the number of eventual claim settlements (and, therefore, rollovers) could substantially differ. To the extent current MPCT account holders who settle a claim and account holders who voluntarily roll over choose to move to an MCIP account (the other qualified tuition program run by the State), the decrease is likely offset, to some extent, by administrative costs and associated fees on new MCIP accounts. To the

extent individuals do not elect to rollover an MPCT contract into another 529 account, nonbudgeted revenues and expenditures for MPCT continue at an increasingly lower level for a couple of decades as the terms of contracts individuals have already entered into come to term.

### *State Matching Contributions*

To the extent that the winding down of MPCT and new rollovers to MCIP cause additional individuals to make contributions to MCIP accounts that are eligible for matching contributions and apply for such matching contributions from the State, expenditures for matching contributions increase. Any increase is capped at \$9,000 per new rollover account that receives a match as Chapters 435 and 436 established a \$9,000 cap on the State contribution amount received over the lifetime of an account holder. The exact scale of the increase depends on the number of accounts that, as a result of the bill, choose to roll over into an MCIP account and cannot be reliably estimated at this time. The number of rollover accounts will in turn depend on (1) the number of claims related to the disclosure statement for MPCT that went into effect November 1, 2021, that are filed and settled; (2) the fraction of accounts settling or voluntarily rolling over that choose to move funds into an MCIP account instead of another qualified tuition plan; and (3) the number of any voluntary rollovers to MCIP.

The exact timing of the increase depends on when individuals choose to roll over MPCT accounts but likely begins in fiscal 2025, reflecting the December 31, 2023 deadline to file an MPCT claim related to the disclosure statement that went into effect November 1, 2021, and the requirement that, to receive a match for contributions in a given year, the individual must submit an application between January 1 and June 1 of each year and payments for applications received during that timeframe are paid out in December of the same year.

As discussed above, the State's matching contribution for Save4College has been budgeted within MHEC. Under the bill, the Save4College plan is also moved to STO. Under the fiscal 2024 budget as passed by the General Assembly, the general fund appropriation, however, is maintained at MHEC, at least for time being, and received by STO as reimbursable funds. The fiscal 2023 budget and fiscal 2024 budget as passed by the General Assembly both include an appropriation of approximately \$11.0 million for State matching contributions.

### *Account Funds*

The above estimate does not include non-operating revenues and expenditures (the assets/contract payments of account holders) as this analysis assumes those would remain in funds managed by third-party vendors/investors under contract with Maryland 529. Specifically, T. Rowe Price is the program manager for MCIP and Intuition College

Savings Solutions, LLC is the program manager for MPCT. For the Maryland ABLE Program, Vestwell State Savings, LLC is the program manager and provides administrative and recordkeeping services to the program under the direction of the Maryland 529 Board.

In fiscal 2022, MCIP received \$883 million in contributions from and disbursed \$624.6 million in distributions to account holders. The total value of investments held in MCIP totaled \$7.8 billion. MPCT received \$36.7 million in contributions from contract holders and honored its contract obligations by paying approximately \$73.6 million in tuition benefits. As of fiscal 2022, MPCT consisted of \$1.1 billion in trust investments. For fiscal 2022, contributions by Maryland ABLE account holders totaled \$23.2 million, and Maryland ABLE account holders received over \$6.1 million in distributions.

The ABLE Program received \$642,600 in general funds in fiscal 2017 for start-up costs. Currently, the Maryland 529 Board plans to reimburse the State for these expenditures. The bill repeals the requirement that the initial start-up appropriation be repaid; thus, to the extent Maryland 529, in becoming part of STO, no longer repays the initial start-up appropriation, State general fund revenues may decrease.

#### *Settlement Payments*

Settlement of claims against MPCT may require additional payments from the trust to account holders, but the amount will depend on procedures and regulations adopted by the State Treasurer. Any claims arising from the administration of MPCT must be made solely against the assets of MPCT, and the State Treasurer must settle claims in their capacity as fiduciary to MPCT, solely considering the interests of all account holders and qualified beneficiaries. This analysis, therefore, assumes current MPCT funds will be sufficient to cover the cost of any settlement payment determinations made by the State Treasurer.

#### *Effect of Income Tax Deductions for 529 Accounts*

The net effect of ending MPCT on State revenues from income tax deductions claimed by individuals for contributions to 529 accounts is likely minimal. Individuals with a current MPCT contract have the option to remain in the program, and it is unclear how many individuals will choose to roll over their account (either voluntarily or as the result of claim settlement). Nevertheless, the wind down of MPCT means no new MPCT accounts will be created beyond June 1, 2023. Even with the wind down of MPCT, most individuals currently saving for college via an MPCT account do not likely cease saving for college with the closure of MPCT to new accounts. Instead, this analysis assumes that most will save for college by continuing to contribute to their existing MPCT contract or using another similarly tax-advantaged savings plan. Similarly, prospective MPCT account holders will likely use another tax-advantaged college savings plan (like MCIP or a qualified ABLE program). Accordingly, the wind down of MPCT has limited overall effect

on the income tax deductions claimed for contributions to 529 accounts. Additionally, MPCT is a relatively small 529 program with only 1,152 new enrollments in fiscal 2022. The Office of the Comptroller advises that, for electronic filers only in tax year 2021, approximately 13,400 individuals claimed income tax deductions for contributions to 529 accounts for a total sum of approximately \$100.5 million. Nevertheless, to the extent the wind down has an effect, general fund revenues increase minimally.

There are no additional income tax effects from claim settlements since the bill also specifies that settlements do not count as contributions for the purposes of law governing State income tax and are exempt from State (and local) taxes.

**Local Revenues:** As described above, the bill may influence the number of individuals claiming income tax deductions for contributions to 529 accounts as the bill phases out MPCT; however, any such effect is likely minimal. Any settlements are exempt from local taxes.

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### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** HB 1290 (Delegate Forbes) - Appropriations.

**Information Source(s):** Comptroller's Office; Maryland State Treasurer's Office; Maryland Higher Education Commission; University System of Maryland; Maryland 529; Maryland Department of Disabilities; Department of Legislative Services

**Fiscal Note History:** First Reader - March 15, 2023  
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