March 20, 2023

Written testimony in support of HB 1290 with amendments specified below:

My Dad was just 18 when he was drafted into World War II. After serving, he received his engineering degree from Ohio State, his Masters from UCLA, and worked for Lockheed for 35 years on the most highly classified projects. He dedicated his life to his country, his work, and his family. And when he passed away in 2010, he specified that the money he carefully saved and left to his grandsons should be used for education. So, I invested it in the Maryland Prepaid College Trust.

Flexible tuition plans and payment options.

TUITION PLANS
The Prepaid College Trust offers you a variety of tuition plans, which include payment of tuition and mandatory fees.

- **University Plan:** Purchase one semester or one, two, three, four, or five years at a four-year college or university.
- **Community College Plan:** ***Our most affordable plan.*** Purchase one or two years at a community college. However, this plan does not require your child to attend a community college. If he or she attends a four-year college, in or out of Maryland, this plan will pay up to that year's Weighted Average Tuition of Maryland's community colleges towards the tuition and mandatory fees at the selected college.
- **Two-Plus-Two Plan:** Purchase two years at a community college and two years at a four-year college.

PAYMENT OPTIONS
The Prepaid College Trust also offers several payment options to help you find one to fit your budget.

- **Lump Sum:** A one-time payment.
- **Annual:** Equal yearly payments.
- **Five-Year Monthly:** 60 equal monthly payments.
- **Extended Monthly:** Equal monthly payments for a specified number of months that generally continue through July 1st of the projected year of the child's college enrollment (or initial year of eligible use for current 10th–12th graders).
- **Down Payments:** 25%, 40%, or 55% of the lump sum, with the remaining amount paid by either monthly or annual payments, as described above.

Legislative Guarantee
In the event that the Trust ever experiences a financial shortfall, Maryland law requires the Governor to include funds in the State budget to allow the Trust to pay your full benefits. As with the entire State budget, the Maryland General Assembly has final approval.

"After receiving an inheritance from my parents, our first priority was to open Maryland Prepaid College Trust accounts for our two sons. It is important to us to save now so they won't have to borrow in the future."

Judy O'Connor – Mother of Troy (left) and Ryan (right)

My boys appeared in this 529 brochure ten years ago. I thought they would be covered based on the contract terms and legislative guarantee. I feel like I was scammed, and like I let my kids down by making this investment.

Now my younger son is 18, and he just got accepted to Ohio State, his top choice and my Dad's alma mater. Unfortunately, due to the issues with the MPCT, we don't know if he can afford to go – and he needs to decide by May 1. There is a $30,000 discrepancy between his 2021 and 2022 Trust Account Statements. I don't want him to commit to Ohio State if he will be adding this $30,000 to the loans he will already need to take out, and he shouldn't have to based on the contract we signed! My older son, using his funds in-state at Salisbury University, has a similar discrepancy.

Despite Maryland 529's claims, the current "hold" on earnings is not a result of a calculation error. Rather, **Maryland 529 changed contract terms** to justify reduced earnings.

> **Contracts from 1998-2021:** These contracts clearly state that account holders have the option of taking a Rollover distribution amount equal to all payments made to MPCT plus or minus 100% of Investment Earnings. It is an option that has always been available, and that thousands of families have used.
>
> **2019 Board vote and subsequent update to Article VI:** The Investment Earnings rate realized by MPCT was 6% annually. As of today, that figure is 5.3% due to a volatile 2022 stock market. Account holders believed that they would have access to these earnings on accounts established prior to 2021, especially after seeing these amounts reflected on our 2021 statements.
>
> **Today:** Maryland 529's changes to that Article and the new calculations are *not* applying 100% of Investment Earnings. Suddenly, it is a rate equal to 1 Year Treasury Note minus 1.2% (effectively 0-1%) for all periods *before* November 2021 and a *new language* rate of 6% to periods *after* November 2021.
>
> My sons' accounts were funded in 2011. 0-1% being applied for years prior to November 2021 totals tens of thousands less than the 5.3-6% investment earnings return realized and owed to us under the original Article VI. **Maryland 529 is holding money contractually owed to my children for their education and diverting attention by relentlessly referencing a "calculation error." Where did our money go?**

Maryland 529 has the ability to release earnings to account holders NOW.

The MPCT is more than 130% overfunded. Per a 2003 disclosure, an overfunding greater than 130% allows distribution of excess funds. Maryland 529 can do this NOW, not whenever they claim their never-ending recalculations and audits are complete. We saw this distribution on our 2021 statements, and now it's gone. Where is this money? It does not belong to the trust or the state, so why isn't it available to the families who need to use it *now* to pay tuition or make life-changing financial decisions? Why does my current statement reflect only the principal I paid in more than ten years ago?

I support HB 1290 with the following Amendments:

Amendment I:

Methodology:

Earning Rate: As of June 1, 2023, The State Treasurer shall grant and apply account holders a 6% earnings rate compounded monthly on account balances from the date of contribution to the date of the transfer.

Rationale: 6 percent was then "since inception return rate" that existed at the time of the April 2022 earnings freeze. This rate essentially honors the "Termination, Transfer and Refund" article of contracts that called for "100 percent of investment earnings" or losses on contributions from inception. It also corresponds with the 6 percent compounded monthly rate that the Board voted on in 2021 and that was reflected on the December 2021 FAFSA refund values, which were considered binding as of March 1, 2022. Account holders relied on those "refund value" statements to make financial decisions for beneficiaries. Note: Actuaries, 529 staff, Intuition and others all interpreted this 6 percent rate as applying to contributions in an account from inception. This amendment will eliminate the Article IX contract violations that have caused harm to account holders. That provision of the contracts said that the board could not retroactively modify contracts in a manner adverse to beneficiaries, and that any such change required prompt notification so account holders could cancel their contracts.

Who Calculates: Intuition will reinstate the correct earnings calculation for account holders to comply with the contract terms that resulted in the December 2021 statement FAFSA values.

Rationale: The plan cannot be migrated to another platform in a financially responsible and timely manner. Intuition is already set up and has the correct calculation formulas as evidenced by their production of the December 2021 FAFSA statements and are in the business of administering prepaid plan contracts.

Notification: An updated account statement will be mailed to each account holder reflecting the correct earnings calculations.

Amendment II:

Claims Process:

Can be filed by account holder or beneficiary (over the age of 18) using any of the following options (options can be done as separate claims if more than one type is needed):

Types of Claims:

A. Accept and process Rollover, Refund, Tuition and other Qualified Educational Expenses on priority system as follows:

1. Beginning July 1, 2023: Priority Group 1: Account holders or beneficiaries that have incurred college expenses from the time of the earning freeze to the present and those that will be attending college in the Fall of 2023

2. Beginning September 1, 2023: Priority Group:2 All other account holders or beneficiaries.

Rationale: Relieves account holders that have not been able to pay past expenses first and allows those that will have fall bills due in August to have access to their funds. Prevents further damages to account holders that are incurring IRS penalties due to trust payments being made in years after expenses were incurred.

B. Establish a Damages Claims Process for those who have incurred expenses who were unable to to access their funds from April 15, 2022 to present

Rationale: Account holders should be reimbursed for damages as a result of the frozen earnings. Examples of harm can include but are not limited to the following: loans with interest, interest from credit cards, penalty for using retirement accounts, refinancing a house at higher interest, IRS tax and/or state tax penalty, etc. For those that used Weighted Average Tuition after the investment earning’s freeze (April 15, 2022), the excess benefits not accessible shall be calculated and refunded to beneficiaries or account holders.

Amendment III:

Funding Source:

1. MD PrePaid College Trust. The 2022 annual report indicated the Trust had $1.2B in assets that included a $355.6M surplus as well as $321M set aside for accrued earnings.

2. The MPCT operating surplus is invested in a Money Market Mutual fund and has been maintained in an account held by Wells Fargo (As of June 30, 2022, the amount invested in this account was $13,321,779).

3. If necessary, the Maryland State rainy day fund ($2.9B) and/or The Maryland State General fund ($2B); as other states have done when their PrePaid Trust Plans became insolvent. Additionally, in the case of liquidity shortcoming by the Trust, the State could provide a loan to the Trust up to the full value of the Trust assets to cover account holder requests (there is precedent to this as the State provided start up loans to the Trust for both the PrePaid and ABLE plans).

Rationale: The funds in the trust belong to the account holders and consist solely of contributions made from the account holders personal funds and the investment earnings made on those contributions. All fund expenses have been borne by the account holders via fees paid per account holder contracts. There is no taxpayer money in this fund, therefore it should be returned to who it belongs to, the account holders themselves for the intended benefit of the education of their children. The rainy day fund should not be needed if the MPCT audits and actuary reports are correct but needs to be available if they are not per the legislative guarantee.

Amendment IV: Add subpoena power so the work group can call on people to provide information.

Amendment V: Provide a mechanism to combine multiple accounts of a beneficiary so it is in one account in order to comply with IRS rule that only one account rollover is permitted per year.

Amendment VI: Extend statute of limitations for contract disputes to 1 year after the work group report is made public.

Amendment VII: Notification will be provided to all account holders regarding 529 transfer to Treasurer be mailed, emailed, and stated on 529 website to notify account holders of the change within 15 days of passage of the Bill.

Amendment VIII: Upon passage of the Bill, close Maryland 529 Prepaid College Trust to new contracts. Rationale is that practically, it will be challenging to implement the transfer to Treasury and process new contracts simultaneously. Also avoids increasing liability for such contracts.

Amendment IX: Start date of work group by June 1, 2023 and end date to September 2023. Work group should include 2 appointed Senators, 2 appointed Delegates, 4 MD 529 account holders who have experienced issues accessing their funds, and the Treasurer.

Amendment X: After December 31, 2023, the Treasurer will establish a rollover option with an additional incentive to be determined based on the surplus funds identified in the actuarial audit.

Thank you for your support!

Regards,

Judy O'Connor (Gaithersburg, MD)
Judyoc9@gmail.com | 301-335-8835