

March 20, 2023

Dear Maryland General Assembly:

I am writing in reference to HB1290. My son was born in 2004 and the following year we started a MD prepaid college trust for him and paid nearly \$40,000 in payments over a five-year period. Our balance in the pre-paid college trust was more than \$93,000 as of March 1, 2022, when he was a senior in high school about to graduate. We called to initiate the rollover for the year last summer, but we were told that there was a "calculation error" that would soon be corrected (a lie), our earnings were frozen, and the plan would only pay for the portion of tuition not covered by my son's legislative scholarships. So we had to scramble to come up with the funds to pay out of pocket for Benjamin's room and board until the earnings were "released."

When we requested a balance over the summer, we saw all of our earnings that we were entitled to had been wiped out. With the 529 plan's "new calculation," our principal supposedly made a little over \$1,000 in earnings over 17 years. It's disgraceful. We are beyond frustrated and feel like we have been taken advantage of by the state's 529 plan.

Our son is in college NOW and we need MD529 to HONOR their contracts and give us our earnings NOW.

We need MD 529 to RESTORE OUR INVESTMENT EARNINGS BENEFIT FOR PRIOR YEARS accrued prior to the contract changes that are in breach of contract.

WHY don't we have the MAKE WHOLE figures requested of MD529 Executive Director over 60 days ago by this body? Their vendor, Intuition, should easily have this figure by simple total of all December 2021 statements mailed to policyholders. The Trust has reported a \$1.2 Billion balance as of June 2022, that includes over \$300M in overfunded excess AND over \$300M set aside for earnings accrued. HALF the Trust is available to FIX this issue. Please let's get this FIXED now not a year from now.

Also, below are amendment suggestions for the Bill.

Thank you for taking the time to listen.

Respectfully,

Lisa Harlow & James Harlow)
Account holder and Parents of Benjamin Harlow

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 can not 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.

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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.