

**From:** [Cheryl Moss Herman](#)  
**To:** [AA\\_APP](#)  
**Subject:** Fw: SB 959, as amended -- Legislative Intent?  
**Date:** Sunday, April 09, 2023 8:00:34 PM

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----- Forwarded Message -----

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**Sent:** Sunday, April 9, 2023 at 07:55:25 PM EDT  
**Subject:** SB 959, as amended -- Legislative Intent?

Dear Chairman Barnes and Members of the House Appropriations Committee,

Thank you for your significant efforts to address the challenges faced by account holders of the Maryland Prepaid College Trust.

Tomorrow, I understand that you will be considering SB 959, as amended by the Senate. While the bill seems intended to address the management issues and lack of oversight of the independent Maryland 529 agency by dissolving the independent agency and its board and transferring control to the State Treasurer's Office, there is ambiguity related to the claims settlement process and the impact on affected account holders like me.

I have shared previously that the difference between an estimate of my semester minimum benefits that I learned directly in a May 18, 2022 phone call with the then Executive Director of the Maryland 529 Erin Layton and contained in a May 19, 2022 letter versus the manual calculation I received in January 2023 is almost \$50,000. That is \$50,000 that will need to found elsewhere to fund my daughter's four years at an out-of-state college. If SB 959, as amended, becomes law, I intend to file for those funds under the settlement claims process. I would be asking for exactly what my contract provides -- no more, no less.

During the Senate Committee voting sessions last week, the Treasurer's staff said it is waiting for new actuarial reports before committing to giving account holders the earnings rate that will be part of the settlement process. This concerns me because the information within that report could be based on the same poor records and erroneous assumptions that got us to where we are today.

Trust account holders should not be punished for relying on incorrect information. If those documents are wrong, then the state should be held accountable and not put the burden on account holders like me.

The Senate amendment also removed that Work Group that would have provided an opportunity for account holders and members of the MGA to engage with the Treasurer's office and help ensure that the information base is complete and accurate. The need for ensuring accurate information remains and I hope that I will be able to engage to help ensure success of the transition and implementation in the Treasurer's office going forward.

Additionally, to help ensure that the settlement claims process within SB 959, as amended, is successful in meeting the gaps caused by prior Trust actions, it is important that YOUR legislative intent be clear on the record, specifically regarding the following:

- Do you believe that account holders have been harmed or at least affected by the mismanagement of the Trust to date? The existence and potential passage of the legislation seems to indicate so, but a declarative statement would be even better.
- Should all account holders be able to file a claim using the settlement claims process? There seems to be some that view that only account holders who sought distributions would be eligible. Please clarify!
- Does the mere act of requesting a claim mean we accept the final decision of the Treasurer as our settlement, with its forced rollover and limited judicial review? Or, can we request a settlement claim and then reject it? It would be especially good to understand this one as it will affect whether an account holder seeks settlement or goes right to court.
- Do you believe that those of us with emails/letters/notes regarding the retroactive application of the 6% earnings and related estimates of semester minimum benefits should have reasonably relied on that information to make decisions? This goes to the legal concept of detrimental reliance. I think it is reasonable to assume that the methodology described by the Maryland 529 Executive Director directly to account holders could be relied upon.
- Do you believe account holders are entitled to what our contracts state regarding the rollover, that is the "since inception" rate of return, which approximates the 6%? The current approach ignores that contract provision and increases the risk that solutions will be in the courts. This delays the ability to set this program on the right course.

Enacting this bill would be an excellent step in ensuring that the Maryland 529 is again on sound footing to achieve its stated objective to enable families to save for college predictably and make that huge investment more affordable.

But the bill must also honor the contracts of existing account holders and ensure that we share in the prior investment successes of the Trust, rather than bearing significant costs while future account holders benefit from our investments.

Thank you again for your significant efforts and support.

Cheryl Moss Herman  
Maryland 529 Prepaid College Trust account holder  
District 15