From: Brian Savoie, Silver Spring, Maryland (District 20)

To: Maryland Senate, EEE Committee Meeting

Regarding: Testimony in Support of SB 475

Date: February 21, 2023

Dear Chairman Feldman and Members of the Senate:

I testify today in support of SB 475. While this bill does not do enough to solve the problems that parents are facing, It does one important action – brings the impacted parties together to attempt resolution.

To be clear – every day that this issue continues, brings continual harm to families: we are borrowing from our retirements, refinancing our homes, borrowing from family, and taking on debt with high interest rates. None of this would have occurred if Maryland529 had not retroactively changed the terms of our contracts in ways that detrimentally impacted all of us.

In this document, I will lay out how this has impacted my family, how the actions of Maryland 529 have been inappropriate in the extreme, and suggested amendments that could make this bill stronger.

IMPACT ON OUR FAMILY

In 2011, when my son Caleb was seven, I bought a contract with the Prepaid Program paying in more than $57,000 over 125 payments. Tuition for four year in-state tuition was anticipated to be $85,000 by 2022. Those increases never materialized, but the trust has earned significant returns while holding my funds.

In the Fall 2021, we began Caleb's college search which included finalizing financial preparation. I received a statement from Maryland 529 in December 2021 indicating that the FAFSA value of our account was approximately $76,000. I utilized this number when filling out the FAFSA to qualify for student aid for Caleb. On March 31st, I called up the program servicer who indicated that the value of the account was now $78,735. I relied on these figures to determine if my son's dream school, Purdue, was in our budget. I did not make this assumption based on one data point – I made it based on two.

In July 2022, I went to file for my first semester of benefits on my son Caleb's behalf. I discovered that the payment of earnings had been frozen since sometime in April 2022. This was not communicated to account holders until the end of August 2022. I had to pay to go on a payment plan – and had to shift funds from other sources. I was told repeatedly that my interest was only delayed, not denied. I actually said as much in television interviews. I thought my money was fine, because officials with Intuition stated I was not a "problem account".

What has followed is repeated promises and repeated delays.

Maryland 529 indicated that the issue was that the calculation had been applied to historical balances that had already been distributed. Since I had never received a distribution prior to this issue, I could not conceive that I would be an account holder that the board and staff were trying to fix.

However, the issue changed dramatically on Friday evening, January 6 and over subsequent days. Maryland529 began issuing manual calculation reports that showed a dramatic devaluation of account value – not only for account holders who had previously taken distributions, but also for plan holders who had never taken a distribution. During an October 2022 board meeting, Maryland 529's board retroactively changed the disclosure statement back to November 2021. The changes appeared very technical and focused on accounting rules. Parents had no idea of the real impact of this accounting rule change until these manual reports began to be distributed. This retroactive change meant that instead of receiving $78,735.00 – my accounts new estimated value was $59,593.73.

That difference would pay for an entire year of college at Purdue – so this is not a trifle. Some families are losing as much as 60% of their account value in this process.

Because of Maryland529's difficulties, I have moved money around in ways that have caused us to lose interest on our principal. Even though I have not had to take on additional debt yet, the repositioning of my son's fund has cost us hundreds of dollars in additional earnings every single month.

I have stopped counting the number of hours that I have spent working on this issue, but it is easily in the hundreds of hours. I have used vacation time to come to Annapolis to advocate on my own behalf – and for parents unable to take time off. I typically work a ten hour day for work, but have used every lunch hour for this issue for months.

HOW DID THIS HAPPEN AND WHY IS MARYLAND529 TO BLAME

While Maryland529 claims this was a technical calculation error, nothing could be further from the truth. This may have been a misunderstanding of the overall impact of business rules developed and voted on in June 2021, but that is not a calculation error. Maryland529's actions since discovery of this issue have sought to cover up the true nature of this problem – and their intended fix is a further part of that cover up.

For the entire history of the Maryland529 plan, there were two separate calculations for how to receive your benefits distribution – through a Weighted Average Tuition payment OR through a Rollover to another qualified 529 plan.

The Weighted Average Tuition (hereafter, WAT) is the average cost of tuition and mandatory fees at in-state colleges and universities. While the WAT for four years was projected to be $85,000 when I signed up in 2011, the cost of tuition has not kept pace with those estimates.

The calculation for a rollover was determined to be your principal multiplied by 100% of the earnings of the fund. This was about 5.8% APR prior to a rule change in June 2021.

As part of a move to an outside servicer and in alignment with a 2019 OLA audit, Maryland529 sought to equalize the treatment of those using the WAT – and those using the rollover method. They standardize the calculation at 6% APR on contributions and balances prior to November 2021. For new contributions and balances after that date, the calculation was tied to a 10-year treasury note updated annually.

In August 2021, Maryland529 sent a notice to all plan participants in accordance with Article IX of our contracts. Plan participants viewed this change as beneficial to all, because it was an upgrade and a standardization of the interest rate. For students going to school in-state, they would now receive additional benefits that had not been afforded to them before. For those rolling over their accounts (because their children were going out of state), the benefits would not be materially different.

However, something happened in the intervening months. Even though Maryland529 developed a 92-page set of business rules that was voted on by their board, reviewed by their actuaries (GRS), and implemented as written by their servicer (Intuition College Savings Solutions), Maryland529 stated that they saw irregularities. By sometime in April or May, they froze the payment of earnings claiming this was a technical error.

What we have learned is that this was no technical error, the board voted on October 27, 2022 to make further material changes to the Maryland529 contract in ways that detrimentally impact account holders. These contract changes devalued student account by between $300 and $500 million across all impacted accounts. Technical fixes do not require board votes, but contract changes do.

Maryland529 had myriad ways to fix this problem, but the methodology that has been cooked up by Nelson Mullins, a law firm with a reputation of brutal mistreatment of consumers, aids their coverup. Maryland529 is attempting to claim that the board vote in October 2022 is not a contract change – and that all of the changes were just little tweaks to the accounting rules. So this point is not missed, those tweaks to the accounting rules have devalued accounts by between $300 and $500 million across all impacted accounts.

As you can see, Maryland529 has not kept the interest of Maryland families at the top of their mind. They are in violation of their fiduciary responsibilities to plan participants and their beneficiaries. They have sought to repeatedly insulate themselves (and their reputations) from blame. They have attempted to state that parents just don't understand the contracts that we agreed to. This board is either unwilling or unable to act in the best interests of our children. That is why you must step in today.

SUGGESTED AMENDMENTS

Given the significant harms that have been done, I would like to suggest the following significant amendments to this bill. The General Assembly created Maryland529 and does have a clear responsibility to correct this issue.

I'd like to suggest four amendments to this committee:

1. First, the timeline and composition of the working group needs modification. I'd like to suggest convening the working group with a deadline for action no later than December 2023. The Working Group needs to have subpoena powers and include: the Maryland529 Executive Director, one member of the current Maryland529 board, a representative from the Treasurer's

office, a representative from the Comptroller's office, and two legislators - one from each chamber, as well as up to 4 Account Holders.

2. Second, Dissolve Maryland529 as an independent state agency, and have it fall under the Maryland Higher Education Commission or other appropriate state body. The agency has showed repeated inability to self-manage. This is simply the last and most egregious act of an institution with myriad problems and inadequate board oversight.

3. Third, Dissolve the Maryland Pre-paid College Trust. Doing so will require the distribution of not only the principal account holders have paid in, but all of the earnings of the fund equitably to all account holders. This should be close to the returns parents were shown not only in a December 2021 account letter but in various other official forms. At one time I believed this would be an extreme position, but given the repeated contract violations, this does appear to be the only viable option for the current prepaid program. Another may be formed, but the current Prepaid Trust must be dissolved.

4. Fourth, Dissolve the Maryland529 board as it would be unnecessary under the Maryland Higher Education Commission.

Thank you again for the opportunity to testify on this important issue. The General Assembly and the Governor are working together to prioritize education. Without action, parents and children in Maryland will be further statistics in the college debt crisis. Your actions today have the opportunity to counteract some of the horrible decisions that this agency has made over the past several year.

Thanks you,

Brian Savoie

Silver Spring, MD (District 20)