

(II) THE PROGRAM HAS FAILED TO REPAY TO THE STATE ANY APPROPRIATION UNDER § 18-1906.1 OF THIS SUBTITLE.

18-1906.1.

(A) IF THE CURRENT PREPAID CONTRACT OBLIGATIONS OF THE PROGRAM EXCEED THE MARKET VALUE OF PROGRAM ASSETS, AT THE REQUEST OF THE BOARD THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL SUBMITTED TO THE GENERAL ASSEMBLY AN APPROPRIATION IN THE AMOUNT DETERMINED UNDER SUBSECTION (B) OF THIS SECTION.

(B) THE APPROPRIATION TO BE INCLUDED IN THE BUDGET BILL UNDER SUBSECTION (A) OF THIS SECTION SHALL EQUAL THE DIFFERENCE BETWEEN THE CURRENT PREPAID CONTRACT OBLIGATIONS AND THE ~~FAIR~~ MARKET VALUE OF PROGRAM ASSETS.

(C) FOR PURPOSES OF THIS SECTION, THE CURRENT PREPAID CONTRACT OBLIGATIONS AND THE ~~FAIR~~ MARKET VALUE OF PROGRAM ASSETS:

(1) SHALL BE DETERMINED AS OF JUNE 30 OF THE CALENDAR YEAR THAT ENDED BEFORE THE BEGINNING OF THE FISCAL YEAR FOR WHICH THE APPROPRIATION IS REQUESTED; AND

(2) SHALL BE VERIFIED BY THE REPORT OF THE INDEPENDENT OUTSIDE AUDITOR REQUIRED UNDER § 18-1916 OF THIS SUBTITLE.

(D) (1) THE AMOUNT APPROPRIATED UNDER THIS SECTION SHALL BE DEPOSITED INTO THE PROGRAM.

(2) ALL AMOUNTS PAID INTO THE PROGRAM UNDER THIS SECTION SHALL CONSTITUTE AND BE ACCOUNTED FOR AS ADVANCES TO THE PROGRAM.

(3) SUBJECT TO THE RIGHTS OF THE PROGRAM'S CONTRACT HOLDERS, AMOUNTS APPROPRIATED UNDER THIS SECTION SHALL BE REPAYED TO THE STATE WITHOUT INTEREST IN EQUAL AMOUNTS IN EACH OF THE NEXT 2 FISCAL YEARS SUCCEEDING THE ONE FOR WHICH THE APPROPRIATION WAS MADE.

(4) IF THE APPROPRIATION IN THE STATE BUDGET AS ENACTED BY THE GENERAL ASSEMBLY IS LESS THAN THE AMOUNT SPECIFIED UNDER SUBSECTION (B) OF THIS SECTION, THE BOARD MAY ADJUST THE TERMS OF SUBSEQUENT OR CURRENT ~~HIGHER EDUCATION INVESTMENT PREPAID~~ CONTRACTS TO ENSURE CONTINUED ACTUARIAL SOUNDNESS OF THE PROGRAM.

18-1907.

(a) In this section, "fiduciary" means:

(1) A member of the Maryland Higher Education Investment [Program] Board; or

(2) An employee of the Maryland [Higher Education Investment Program] PREPAID COLLEGE TRUST who exercises any discretionary authority or control over: