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Report to the Governor and the General Assembly of Virginia

Virginia529 Oversight Report

2024

JLARC
JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION

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Overview

The Virginia College Savings Plan (Virginia529) administers and manages the investments for five tax-advantaged savings programs available in Virginia (Table 1). Virginia529 administers

- two defined benefit education savings programs—Legacy Prepaid529 and Tuition Track Portfolio;
- one defined contribution education savings program—Invest529; and
- one disability savings program—ABLEnow.

Beginning July 1, 2024, the Virginia College Savings Plan (Virginia529) will be renamed the **Commonwealth Savers Plan**. This change was made by HB 1133, which was adopted during the 2024 session.

Virginia529's education and disability savings programs are authorized by Sections 529 and 529A of the Internal Revenue Code, respectively, and similar programs are sponsored in 49 states and the District of Columbia.

Virginia529 administers a fifth tax-advantaged savings program—RetirePath Virginia, a new state-sponsored retirement savings program for certain private-sector employees without access to retirement savings through their employers. This plan is an automatic-enrollment payroll deduction Individual Retirement Account (IRA) program.

Virginia529 also sponsors a defined contribution education savings program (CollegeAmerica) and a disability savings program (ABLEAmerica) under contracts with Capital Group, a private mutual fund company (Table 2). These programs are sold through private financial advisers, and program participants are largely residents outside of Virginia. For example, Virginia residents hold approximately 6 percent of CollegeAmerica's accounts.

Virginia529's defined benefit education savings programs allow participants to purchase contracts that cover future costs of college tuition and fees. The Legacy Prepaid529 program was closed to new participants after its final enrollment period in 2019, but existing accounts will continue to pay benefits in the future. Virginia529 opened a new defined benefit program—Tuition Track Portfolio—in February 2021. Together, the Legacy Prepaid529 and Tuition Track Portfolio programs are referred to as the Defined Benefit 529 program.

The defined contribution education savings programs—Invest529 and CollegeAmerica—provide participants with options to save for educational expenses. Funds from the savings programs can be used to pay for qualified educational expenses. The programs offer federal and state tax advantages on contributions and investment earnings.

Beginning in 2017, all college savings plans can also be used at **elementary and secondary public, private, and religious schools**. Previously, college savings plans could be used only at higher education institutions.

Virginia529's disability savings programs—ABLEnow and ABLEAmerica—provide tax-advantaged savings accounts for eligible individuals with disabilities. Funds from the programs can be used to pay for qualified disability expenses, such as education, medical care, housing, and transportation. ABLEnow opened to customers in 2016, and ABLEAmerica opened to customers in 2018. Like Virginia529's defined contribution education savings programs, ABLEnow and ABLEAmerica offer federal and state tax advantages on contributions and investment earnings.

Virginia529's retirement savings program, RetirePath Virginia, became available statewide in June 2023. The program was created through legislation passed by the 2021 General Assembly and is intended to provide retirement savings options for private sector employees who may not have access to savings programs from their employers. Virginia is one of 20 states that have passed legislation to create retirement savings programs for private sector employees.

TABLE 1
Virginia529 administers five state tax-advantaged savings programs

	Type of savings program	Accounts	Assets ($)
Defined benefit education saving programs			
Legacy Prepaid529	Contracts for future tuition & fees	37,414	$2.3B
Tuition Track Portfolio	Contracts for future tuition & fees	10,762	$117.1M
Defined contribution education savings programs			
Invest529	Direct-sold investments	484,899	$9.1B
ABLEnow	Direct-sold investments	17,545	$146.4M
Retirement savings programs			
RetirePath	Direct-sold investments	4,076	$1.7M

SOURCE: Virginia529 program data as of March 31, 2024.

TABLE 2
Virginia529 sponsors two adviser-sold tax-advantaged savings programs

	Type of savings program	Accounts	Assets ($)
CollegeAmerica education savings	Adviser-sold investments	2,579,257	$91.3B
ABLEAmerica disability savings	Adviser-sold investments	3,035	$54.0M

SOURCE: Virginia529 program data as of March 31, 2024.

1. Virginia529 defined benefit programs and assets

Virginia529 has two defined benefit college savings plans—Legacy Prepaid529, which was closed to new participants in 2019, and a new defined benefit program, Tuition Track Portfolio (TTP), which opened in early 2021. Both programs require participants to be Virginia residents. Virginia529 closed the Legacy Prepaid529 program because of concerns about the sustainability of the program, including the growing disparity in payouts depending on the institution attended, lack of flexibility for purchasing contracts, and declining program participation. Even though the Legacy Prepaid529 program is closed to new participants, it paid $181 million in benefits in FY23 and will continue to pay benefits into the future for existing participants. No TTP units had reached maturity through FY24.

The new TTP program addresses several concerns with the Legacy Prepaid529 program. The TTP program is based on a weighted average tuition (WAT) model and pays the enrollment-weighted average tuition at Virginia public universities as the basic contract benefit. Therefore, the WAT payout is the same for all students regardless of where they attend college (in-state, out-of-state, public, or private) and may be more or less than the actual cost of tuition and fees depending on the institution attended. Students who attend more expensive institutions will be required to cover the difference between the WAT payout and actual tuition and fee costs, and students who attend less expensive institutions may have funds left over, which could be used for other expenses such as room and board. The TTP program also sells contracts in unit increments (as opposed to semester increments with the previous program), with 100 units equal to one year of weighted average tuition at a public four-year university in Virginia. Virginia529 does not assess a fee to cover administrative costs or assess a pricing reserve to protect the fund against risk.

Legacy Prepaid529 contracts cover tuition and fees for a set period, typically ranging from one to eight semesters at a public university or college. The Legacy Prepaid529 contract defines tuition and fees as the normal, full-time, in-state, undergraduate, mandatory fees assessed to all students. Payout amounts depend on the institution attended.

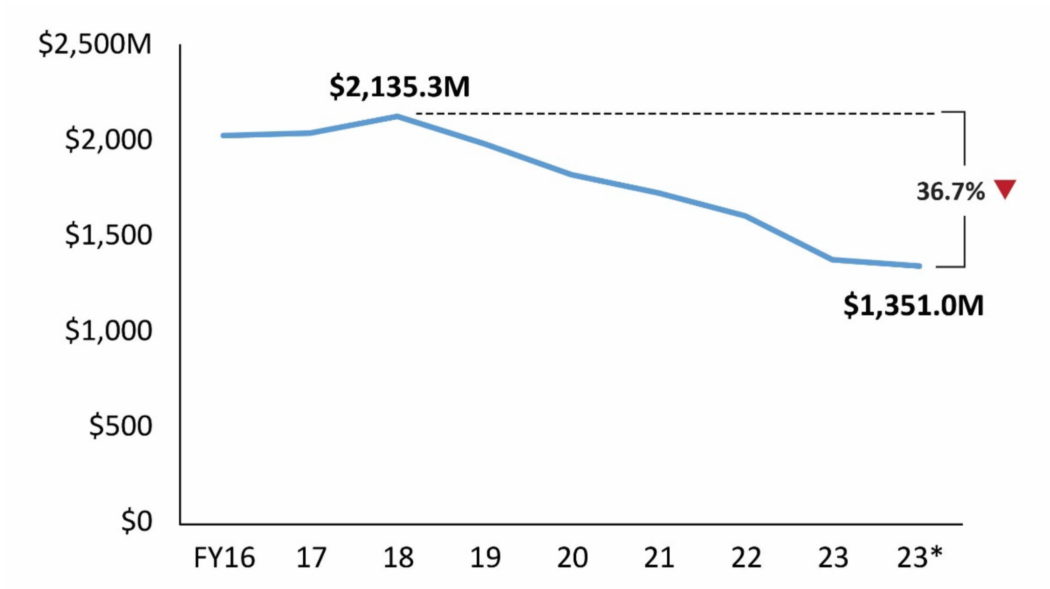
Payouts for students attending private institutions in Virginia or out-of-state institutions are calculated using contract payments plus a rate-of-return as defined by program policy.

In 2018, JLARC published the report, ***Proposed Change to Payout Model of Virginia's Prepaid529 Program***. The report found that a WAT model would address several of the concerns identified with the Legacy Prepaid529 program.

Total defined benefit 529 liabilities have declined since the Legacy Prepaid529 program closed

The total actuarial liabilities of Virginia529's two defined benefit programs have declined considerably in recent years (Figure 1). Total liabilities increased slightly in FY17 and FY18 to $2.1 billion but have declined 37 percent to $1.4 billion as of December 31, 2023. Two primary factors contributed to the decline. First, tuition obligations and active accounts with the Legacy Prepaid529 program are declining now that the program is closed, and contracts continue to mature. Legacy accounts decreased from approximately 62,500 at the end of FY19, when the program was closed, to approximately 37,400 as of March 31, 2024—a decline of 40 percent. Also, no liabilities were added for the two years between when the legacy program was closed in FY19 and when the TTP program opened in FY21.

FIGURE 1
Total actuarial liabilities of Virginia529's defined benefit 529 programs have declined since FY18



SOURCE: Virginia529 actuarial data.
NOTE: Actuarial liabilities as of December 31, 2023. All other years are as of June 30.

The second factor is that the new TTP program is not selling tuition units at the same rate at which Legacy Prepaid529 semesters sold, according to Virginia529's actuary. TTP participation has grown substantially since the program opened in early 2021, with both accounts and assets nearly quadrupling. TTP had 10,762 accounts and $117.1 million in assets as of March 31, 2024. However, sales of TTP *units* are substantially lower than the equivalent historical sales of Legacy Prepaid529 semesters. An average of 221,000 TTP units were sold each year during FY22–23, and approximately 140,000 units were sold through the first three quarters of FY24. If TTP were selling at the same historical rate as Legacy Prepaid529, TTP would be selling approximately 600,000 units annually. TTP units also cost substantially less, and therefore create a smaller liability, than the equivalent Legacy Prepaid529 semesters.

TTP unit sales are slower than those of Legacy Prepaid529 for several reasons. According to Virginia529 staff, there was significant pent-up demand for a defined benefit college savings program when Legacy Prepaid529 opened in 1996, which may not have been the case in 2021. Other savings options, such as the Invest529 and CollegeAmerica programs, were not available when Legacy Prepaid529 opened. Virginia529 staff also cited factors that dampened enthusiasm for a new defined benefit program when TTP opened, including moderate tuition inflation, strong market returns, and difficulty promoting awareness of the new program during the pandemic.

Virginia529 will need to assess the demand for the TTP program to ensure that it has sufficient participation and appropriate pricing and is a viable program long term. The

2018 JLARC report, *Proposed Change to Payout Model of Virginia's Prepaid529 Program*, recommended that Virginia529 assess the demand for the program after it had operated for a trial period of three years, which would be by 2024. The recommendation directed Virginia529 to submit a report on program demand and long-term viability of the program to JLARC and the House Appropriations and Senate Finance and Appropriations committees. Virginia529 staff anticipate conducting such an assessment sometime after the end of FY24.

Defined Benefit 529 fund holds approximately $3 billion in assets and has underperformed benchmarks

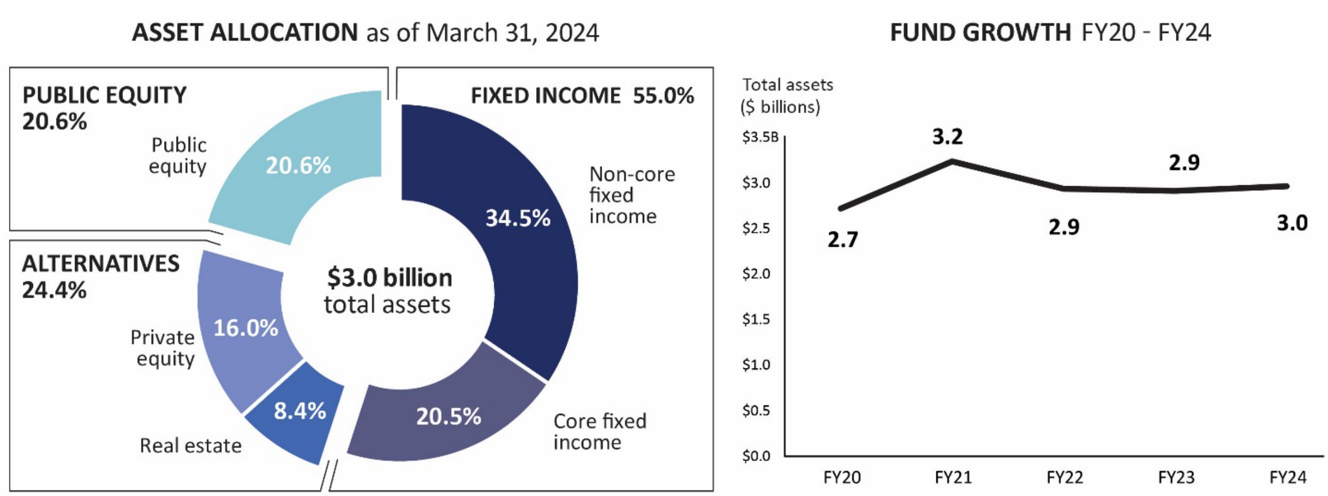
For actuarial and investment purposes, Virginia529 combines the assets for the Legacy Prepaid529 and TTP programs into a single Defined Benefit 529 (DB529) fund. Virginia529 also created an Access fund in 2023 with some of the actuarial surplus funds from the DB529 fund (discussed below). Virginia529 commingles the assets from the DB529 and Access funds for investment purposes and manages them through a single asset allocation and set of investment strategies.

The assets in the DB529 and Access funds have remained at approximately $3 billion in recent years (Figure 2). More than 80 percent of these assets, or a little more than $2.4 billion, are held in the DB529 fund. The remaining assets total approximately $532 million and reside in the Access fund.

The Virginia529 board and its investment advisory committee (sidebar) oversee the investment of the assets in the DB529 and Access funds. The board determines the overall allocation of assets, which is divided into three asset classes: fixed income, public equity, and alternatives (Figure 2). The investment advisory committee determines the investment strategies within each asset class. Virginia529 investment staff, led by the agency's investment director, work with a consulting firm to select and retain private investment management firms charged with implementing the investment strategies. Investment staff and the consultant also oversee these external managers, monitor their performance, and make recommendations to the board and investment advisory committee.

The **Virginia529 investment advisory committee** includes the board chairman, chief executive officer, and at least four investment professionals appointed by the board chairman. All members have voting privileges.

FIGURE 2
Asset allocation and growth in DB529-related assets



SOURCE: Virginia529 program data.
NOTE: FY20-23 reported as of June 30; FY24 reported as of March 31, 2024.

DB529-related assets underperformed most benchmarks but overperformed the assumed rate of return for most periods

DB529-related assets underperformed most benchmarks but for several periods overperformed the 5.75 percent long-term rate of return the Virginia529 board assumes for its investments. DB529-related assets underperformed the total fund custom benchmark for all periods, except the "since inception" period (Table 3). The total fund achieved a return of 8.06 percent for the one-year period ending March 31, 2024, more than 250 basis points below the benchmark. The degree of underperformance relative to benchmarks was less for the three-, five-, and 10-year periods.

The underperformance of the total fund for the one-, three-, five-, and 10-year periods is concerning, but performance seems to be improving. The fixed income and public equity portfolios overperformed their benchmarks for the nearer-term periods. This improved performance follows changes Virginia529 staff made, in collaboration with its consultant and the investment advisory committee, to restructure the portfolios after years of underperformance. The underperformance of the total fund for the one-year period largely reflects the underperformance of the alternatives asset class, specifically the private equity portfolio. Private equity is benchmarked to the public equity markets, which continued to perform strongly, while private equity markets declined, according to Virginia529 staff.

TABLE 3
Defined benefit 529-related assets underperformed most benchmarks

for the period ending March 31, 2024

	CY to date	1-year	3-year	5-year	10-year	Since inception
Total fund	2.55%	8.06%	3.21%	6.13%	5.28%	6.13%
Benchmark	3.00	10.56	3.88	7.02	6.02	5.80
Excess return	**-0.46**	**-2.51**	**-0.66**	**-0.89**	**-0.74**	**0.34**
Fixed income	1.67	8.21	1.01	2.84	3.06	4.90
Benchmark	1.00	7.95	0.85	3.45	3.40	4.75
Excess return	**0.68**	**0.26**	**0.16**	**-0.61**	**-0.34**	**0.15**
Alternatives	-0.26	-3.00	9.36	10.46	9.09	6.76
Benchmark	2.79	4.21	7.66	10.01	8.27	6.64
Excess return	**-3.05**	**-7.21**	**1.70**	**0.45**	**0.81**	**0.12**
Public equity	8.72	23.91	5.20	10.73	7.65	7.48
Benchmark	8.32	23.81	6.42	10.79	8.72	6.60
Excess return	**0.41**	**0.10**	**-1.22**	**-0.06**	**-1.07**	**0.88**

SOURCE: JLARC analysis of Virginia529 investment department data.
NOTE: All returns are net of fees as of March 31, 2024. Total fund, fixed income, and public equity have inception date of October 1997; alternatives inception was May 2005.

Fixed income. The fixed income program ($1.6 billion) is the largest asset class of DB529-related assets. The program primarily consists of U.S. dollar-denominated securities that pay a specific interest rate (government bonds, corporate bonds, and U.S. treasury bills), high yield bonds, and emerging market debt. Fixed income investments typically exhibit lower volatility relative to most other asset classes and are expected to generate steady returns even in down equity markets. The fixed income portfolio slightly overperformed its benchmark for the one- and three-year periods but underperformed for the five- and 10-year periods by 61 and 34 basis points, respectively.

As in prior years, Virginia529 staff attribute the longer-term underperformance of the fund's fixed income assets to managing the portfolio with a defensive posture to guard against rising inflation and interest rates. This approach results in relatively lower returns during periods of level or declining federal funds rates, as was the case for much of the five- and 10-year periods. According to staff, the underperformance of fixed income assets over the five- and 10-year periods primarily reflected the defensive approach used by managers within the convertible bond program (sidebar) of the noncore fixed income portfolio, which represents more than two-thirds of fixed income assets. This defensive approach had positive absolute returns and met its objectives, according to Virginia529 staff, but was not reflected in the program's benchmark and therefore led to underperformance amid the substantial increases in the public equity market over these periods. Virginia529 staff eliminated the convertible bond sub-asset class in 2021. While this locks in losses relative to the benchmark for longer-term historical performance, Virginia529 staff believe this change should lead to less deviation from the benchmark in the future.

A **convertible bond** is a type of corporate bond that can be converted into the issuing company's stock.

Alternatives. Alternative assets ($724 million) are the second largest asset class of Defined Benefit 529-related assets. Alternatives primarily consist of investments in private equity (investments in privately held companies) and real estate. Alternative investments have the potential to provide greater returns than public equity markets, and more stable returns during periods of high market volatility because the private equity market is less volatile.

Alternative assets outperformed their benchmark for the three-, five-, and 10-year periods, including by more than 170 basis points over the three-year period. However, they underperformed their benchmark for the near-term periods, including by more than 700 basis points for the one-year period. The performance of the alternatives asset class largely reflects the performance of the private equity portion of the portfolio. While private equity overperformed its benchmark for the longer-term periods, it underperformed by more than 19 percentage points for the one-year period. This underperformance reflects recent declines in the private equity market amid the strong performance of the public equity market, which provides the basis for the private equity benchmark. The underperformance of private equity over the one-year period was partially offset by the other primary component of alternative assets—the real estate portfolio—which lost 7.5 percent for this period but still overperformed its benchmark by more than 500 basis points.

Public equity. Public equity ($611 million) is the smallest asset class of DB529-related assets. The program consists of stocks and other equity securities for publicly traded companies in the U.S. and international markets. Public equity investments typically exhibit higher volatility than bonds but offer potential for greater long-term growth. The public equity portfolio underperformed its benchmark for the three-, five-, and 10-year periods, including by 107 basis points over the 10-year period. However, the public equity portfolio overperformed its benchmark for the one-year period.

Value exposures are investments in companies whose stock prices do not reflect their intrinsic worth. By investing in these companies, investors believe stock prices will increase to more accurately reflect their intrinsic worth.

The longer-term underperformance of the public equity asset class primarily reflects the defensive posture Virginia529 had used to protect public equity assets in down markets and periods of market volatility. Domestic equity, which represents the majority of public equity assets, had been invested more heavily in small- and mid-cap equities and value exposures (sidebar) compared to the benchmark. This strategy detracted from domestic equity's performance during the prolonged increase in growth and large-cap technology equities over the last several years. As a result, the domestic equity portfolio underperformed its benchmark by substantial margins in both the five-year and 10-year periods.

To improve the performance of the public equity portfolio relative to its benchmark, Virginia529 restructured the portfolio to largely eliminate the tilt toward small and mid-cap equities and value exposures. The domestic equity portfolio was also converted to a passively managed index fund after determining that an active management strategy was not likely to overperform the benchmark over the long term, given the efficiencies in the domestic equity markets. These changes are expected to improve the performance of the domestic equity portfolio, and the broader public equity asset class, relative to their benchmarks, according to Virginia529 staff. Domestic equity overperformed its benchmark by 41 basis points over the one-year period, mirroring the overperformance of the broader public equity portfolio over the same period.

DB529 fund has a funded status of 183 percent and an actuarial reserve of $1.1 billion as of December 31, 2023

Virginia529 must maintain sufficient assets in the DB529 fund to pay the current and future obligations of the Legacy Prepaid529 and TTP programs. The fund receives two sources of revenue: (1) payments from contract holders and (2) fund investment returns. In previous years, the fund also received net operating revenue each year, much of which was composed of administrative fees from other Virginia529 programs, primarily the CollegeAmerica program. Assets in the fund must be sufficient to cover future benefit payments, refunds, and other payouts.

Funded status is the actuarially determined ratio of assets to obligations for the Defined Benefit 529 program.

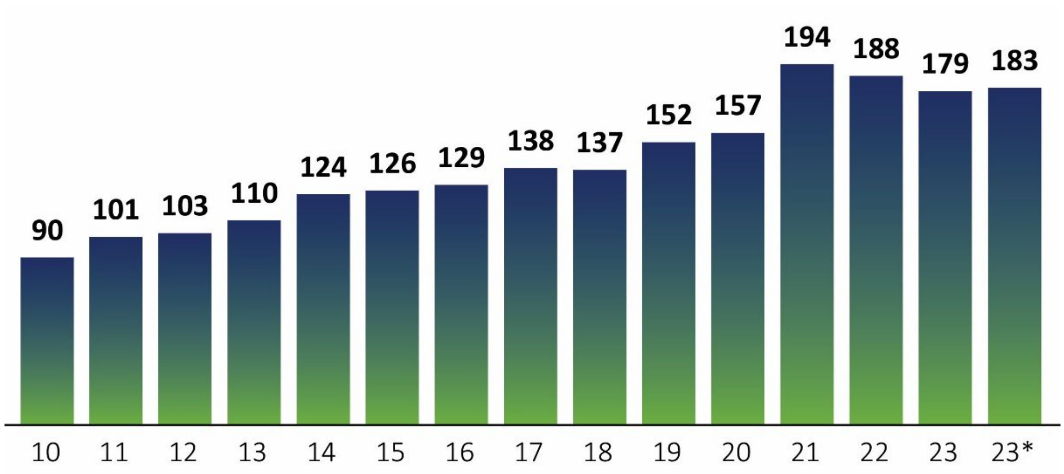
As has been true for several years, the DB529 fund has more than sufficient assets to meet its future obligations. As of December 31, 2023, the program's funded status was 183 percent, and the actuarial reserve was $1.1 billion. At this level, there is a 99 percent chance of meeting or exceeding future obligations for the Legacy Prepaid529 and TTP programs, based on the actuarial valuation and current actuarial assumptions.

The DB529 fund's **actuarial reserve** is the best estimate of the present value of the surplus (or deficit) that will result once all currently held obligations are paid over time, using the assets currently held in the fund.

The funded status of the DB529 fund has declined from its peak of 194 percent in FY21 (Figure 3), primarily because of the Virginia529 board's reallocation of $500 million in actuarial surplus funds from the DB529 fund in 2023. The surplus funds were allocated to the newly created Access fund, which the board created in preparation for legislative authority to provide enhanced benefits to contract holders, support additional higher education access and affordability initiatives (explained later in this chapter), or both. If these funds had remained in the DB529 fund, it would have had an actuarial reserve of $1.6 billion and a funded status of 216 percent as of June 30, 2023.

The funded status of the DB529 fund has not been lower than 100 percent since 2010 (Figure 3). The funded status increased because of several factors: the allocation of administrative fee proceeds to the fund, investment returns, moderate tuition growth, and the prolonged used of a pricing reserve added to the price of contracts to protect the fund against risk. Several recent changes in actuarial assumptions also increased the funded status (next page).

FIGURE 3
Percent funded status of the DB529 fund has declined slightly in recent years but remains high



SOURCE: Virginia529 actuarial data.
NOTE: * Funded status as of December 31, 2023. All other years as of June 30. The Virginia529 board removed $500 million in actuarial surplus funds from the DB529 fund in FY23.

Virginia529 revised several DB529 assumptions in 2023, improving the actuarial soundness of the fund

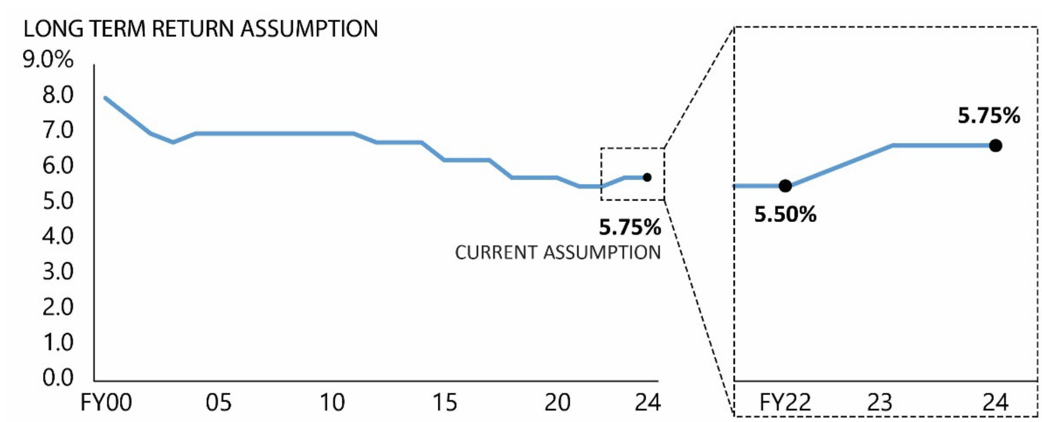
In 2023, the Virginia529 board revised several important assumptions related to the defined benefit programs. The assumptions are key to calculating the actuarial liabilities and funded status of the DB529 fund, and the revisions improved the actuarial soundness of the fund. In September 2023, Virginia529's actuary reviewed the appropriateness of several assumptions as part of an experience study comparing the assumptions to the actual experience of the program. Based on the study, the board revised assumptions related to

- the percentage of tuition units that will be canceled,
- the percentage of units that will be used for non-tuition benefits, and
- the percentages of units that will be used at Virginia public, Virginia private, and out-of-state institutions.

Collectively, the revised assumptions increased the actuarial reserve by $133 million based on the June 30, 2023, valuation.

The Virginia529 board also increased the long-term rate of return assumption for the DB529 fund from 5.5 percent to 5.75 percent in 2023 (Figure 4). The long-term rate of return assumption is an annualized percentage return on investments expected in the future based on a 20-year forecast of capital markets. The long-term rate of return is a key assumption that affects the projected increase in the value of DB529 assets, and therefore, directly affects the funded status of the DB529 fund. The board had reduced the rate of return assumption from 5.75 percent to 5.5 percent in 2021. However, the board decided, with input from its investment consultant, to increase the assumed rate of return back to 5.75 percent based on expected increases in future returns for both the public and private markets. The increase in the return assumption increased the actuarial reserve by $14 million based on the June 30, 2023, valuation.

FIGURE 4
DB529 fund's long-term investment return assumption increased in 2023



SOURCE: Virginia529 actuarial data.

Virginia529 adopted a Comprehensive Risk Policy that includes a risk-based capital model as an additional way to assess risks to the DB529 fund

In December 2022, the Virginia529 board adopted a Comprehensive Risk Policy that includes use of a risk-based capital (RBC) model to help assess the actuarial soundness of and overall risks faced by the DB529 fund. RBC models are commonly used in the banking and insurance industries to determine the capital reserves needed to ensure a fund's solvency. Virginia529 is the only state using an RBC model to assess a defined benefit 529 program.

Virginia529 indicates that using an RBC model—in addition to using the actuarial funded status alone—allows it to better assess the risks to the fund, determine an appropriate capital reserve, and determine the amount of actuarial surplus funds that can be allocated to its Access fund. Using the RBC model, Virginia529 calculates the funded status and actuarial reserve of the DB529 fund after accounting for the amount of capital that may need to be held in reserve. As part of its RBC analysis, Virginia529 also examines the impact on the fund of moderate and severe stress scenarios involving substantial declines in asset values because of an economic downturn and substantial increases in college tuition.

The RBC model substantially reduces the amount of actuarial surplus funds that may be available because of the additional RBC reserve requirement (Table 4). For example, under current investment return and tuition increase assumptions, Virginia529's actuary calculated that an RBC capital reserve of $184 million should remain in the DB529 fund. Accounting for this capital reserve requirement reduces the funded status from 183 percent to 158 percent and the actuarial reserve from $1.1 billion to $944 million. The funded status and actuarial reserve after accounting for a capital reserve requirement are reduced substantially further under different stress scenarios. For example, under the severe stress scenario, the funded status is 126 percent, and the actuarial reserve is $414 million, after accounting for the capital reserve requirement.

TABLE 4
Virginia529's risk-based capital reserve substantially reduces the funded status and actuarial reserve of the DB529 fund
as of December 31, 2023

	Before RBC charge			After RBC charge	
Scenarios	**Funded status**	**Actuarial reserve (millions)**	**RBC reserve charge (millions)**	**Funded status**	**Actuarial reserve (millions)**
Baseline	183%	$1,128	$184	158%	$944
Moderate stress	162	859	165	148	694
Severe stress	139	561	147	126	414

SOURCE: Virginia529 risk model report for DB529 fund.
NOTE: Moderate stress scenario assumes a 10.5 percent tuition increase and 10 percent asset loss in the first year. Severe stress scenario assumes a 22.1 percent tuition increase and 20 percent asset loss in the first year. After the first year, both scenarios assume investment return and tuition increase assumptions adopted by the Virginia529 board.

Because the RBC model has a substantial impact on the surplus funds available and it has not been widely used with defined benefit college savings plans, JLARC is assessing the RBC model with the assistance of a third-party consultant. The consultant will assess the appropriateness and use of the RBC model that Virginia529 adopted to help assess the actuarial soundness of and risks to the DB529 fund. The consultant will also assess whether other models or tools may be more appropriate to use in conjunction with the actuarial funded status for this purpose. The consultant will deliver its final report to JLARC staff in July 2024.

Virginia529 board allocated $500 million in DB529 surplus funds to an Access Fund

As mentioned previously, in March 2023 the Virginia529 board approved the creation of an Access fund and the allocation of $500 million in actuarial surplus funds from the DB529 fund to it. The new fund was created for two potential purposes, depending on legislative action:

- to provide additional benefits to certain Legacy Prepaid529 contract holders and
- to fund additional programs or partnerships that enhance higher educational accessibility, with a focus on underserved or under-represented students.

To date, no funds from the Access fund have been spent because Virginia529 has not received spending authority in the appropriation act. As a result of investment earnings, assets in the fund have increased to $532 million as of March 31, 2024.

Virginia529's allocation of DB529 actuarial surplus funds to the Access fund was partially in response to the findings and recommendations of a recent JLARC report on the availability of surplus funds to support higher education access and affordability. The report, *Defined Benefit 529 Surplus Funds*, found that, based on the 2021 actuarial valuation, $1.3 billion in actuarial surplus funds could safely be withdrawn from the DB529 fund over at least five years and used for this purpose. The report recommended mandating the withdrawal of funds in statute and creating an independent committee with actuarial and investment expertise to review and approve each planned withdrawal based on updated actuarial and liquidity modeling. The report also provided options for using actuarial surplus funds, including

- returning surplus funds to Legacy Prepaid529 or TTP contract holders and
- providing grants to high financial need or at-risk students at higher education institutions, including progression bonuses for students who re-enroll in their programs, and emergency financial aid for students at risk of dropping out.

Virginia529 has taken several steps to evaluate options to spend Access funds, if it receives legislative authority to do so. In early 2023, Virginia529 created an Access Advisory Committee charged with evaluating options for supporting education accessibility and providing recommendations to the board on programs or initiatives that should be funded. The committee comprises members from the State Council of Higher Education for Virginia, the Virginia Community College System, and other stakeholder groups with expertise in education, mentoring and advising, and child and adolescent development. Virginia529 hired a consultant to assist the committee by identifying effective accessibility programs in Virginia and areas in need of additional funding. In summer 2023, Virginia529 conducted town hall meetings in Richmond, Fairfax, Abingdon, Weyers Cave, and Chesapeake to gather additional input from stakeholders in the community on areas where additional funding would best improve higher education accessibility.

In December 2023, Virginia529 staff provided the board with a white paper summarizing options for spending the $500 million in the Access fund. The white paper included the option of using approximately $250 million to provide additional tuition benefits to Legacy Prepaid529 beneficiaries who attended or will attend less expensive public institutions in Virginia or private and out-of-state institutions. In effect, the option would provide a minimum tuition benefit to contract holders similar to the weighted-average-tuition benefit provided through the TTP program. The white paper stated that the remaining $250 million from the Access fund could be managed like an endowment to improve the accessibility of higher education in Virginia, with approximately $10–$20 million available annually to support initiatives. The white paper listed numerous programs and initiatives that could support higher education accessibility, including

- the SOAR Scholars program (sidebar);
- coaching, mentoring, support, and advising services (including community college advisers) for high school students;
- support services for adults attending a community college or receiving assistance from a workforce development center; and
- scholarships for low-income students enrolled in community colleges or four-year institutions.

The Virginia529 board is continuing to consider issues related to managing the investment of assets in the Access fund and developing a distribution policy for their use.

SOAR Scholars is a scholarship program for high school students from low- and moderate-income households. Through SOAR, Virginia529 partners with nonprofit organizations to provide individual advising to students, such as assistance with the college admissions process and with financial aid applications, and provides a scholarship of up to $2,000 to a Virginia529 account. SOAR is an early commitment program; recipients enter the program in 10th grade and must adhere to program criteria to receive their scholarship.

JLARC reviewed the SOAR program in 2022 and found that SOAR increases participants' enrollment in postsecondary institutions, but many participants do not use their $2,000 scholarship.

2. Invest529 program

Invest529 is a college savings program sold directly by Virginia529 to program participants. Participants contribute to their individual accounts and have several investment options. Investment earnings are exempt from federal taxes if they are used to pay for qualified education expenses, such as tuition, books, housing, and student loan repayment. For state residents, Virginia also exempts earnings from state taxes and offers an income tax deduction for contributions made to this and other Virginia529 savings programs. Funds from Invest529 accounts can be used at institutions in Virginia and other states. The program distributed $607 million to participants in FY23.

Invest529 assets increased faster than accounts over the past 10 years

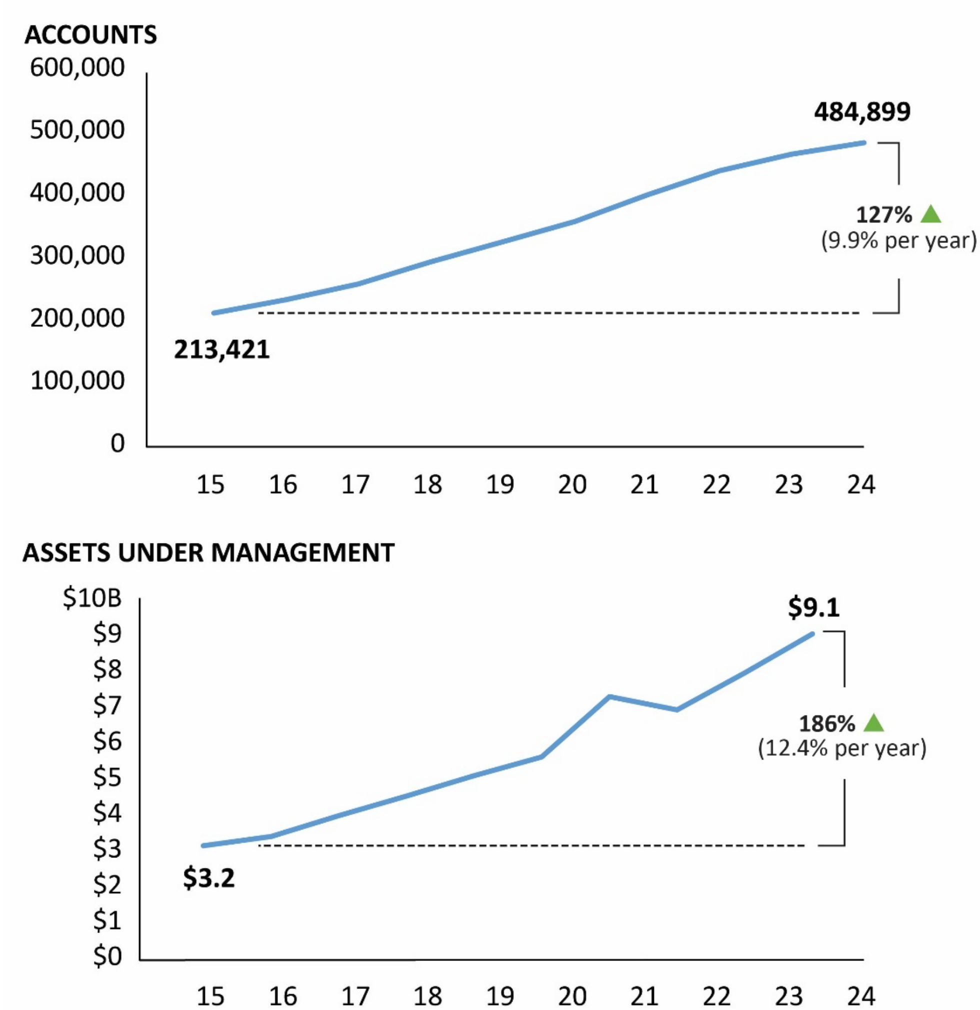
The Invest529 program has increased substantially over the past 10 years in both program participation and total assets under management (Figure 5). The number of Invest529 accounts more than doubled in the 10 years from FY15 through March 31, 2024, increasing an average of 10 percent per year. The value of assets under management grew at a substantially faster pace over this period, nearly tripling from $3.2 billion to $9.1 billion. Invest529 assets have increased more than 30 percent since FY22 ($2.1 billion), largely because of substantial investment returns. The growth in assets over the last 10 years reflects both new contributions and investment returns. The increase in Invest529 participation over this period follows a national trend for college savings programs, which have steadily grown over the past decade.

Majority of Invest529 options overperformed investment benchmarks for most periods

The Invest529 program held a total of $9.1 billion in assets as of March 31, 2024. Assets are owned by program participants who have individual accounts. Individual participants can invest in any combination of 23 investment options offered by the program. Investment options include traditional investments, such as stock and bond investments, and target-enrollment portfolios that automatically adjust over time as the participant approaches college age. Fourteen options are a blend of active and passive management strategies, depending on the asset allocation of the individual option, with the goal of providing better returns or lower volatility than the overall market. The remaining nine options are passively managed and designed to track market indices.

The Invest529 options generally overperformed their investment benchmarks, with some exceptions (Table 5). A majority of actively managed investment options overperformed for each time period. Much of the underperformance of actively managed options occurred during the one- and three-year periods. For example, the Stable Value portfolio underperformed for the one- and three-year periods by substantial margins. The 2021 and 2024 target enrollment portfolios, both of which hold substantial amounts of stable value investments, also underperformed for these periods, in some cases by 50 or more basis points. According to Virginia529 staff, the underperformance of stable value investments was due to the current interest rate environment, which favors shorter-duration investments such as money market funds over longer-duration investments such as bonds (which comprise a substantial share of these portfolios).

FIGURE 5
Total Invest529 accounts and assets grew substantially over the last 10 years



SOURCE: JLARC analysis of program data from Virginia529.
NOTE: Figures reported are as of June 30 of the fiscal year except for 2024, which is as of March 31.

Among passively managed investment options, most underperformed for the one-year period, while a majority of options overperformed for the three-, five, and 10-year periods. Across all time periods, all but one of the passively managed options that underperformed missed the benchmark by a very small margin, 20 basis points or less.

The one exception was the Total International Stock portfolio, which trailed its benchmarks for the one-, three-, five, and 10-year periods by an average of 41 basis points. Virginia529 staff attributed the underperformance of certain passively managed options generally to several factors, including the expense ratios of some options and the impact of fair value pricing (sidebar). Virginia529 staff also attributed the underperformance of the Total International Stock portfolio to fair value pricing caused by the Good Friday holiday on March 29, 2024, which closed markets in the U.S. but not in many other countries.

Fair value pricing (FVP) is a process used to determine the fair value of a security or asset when independent market valuations are not readily available or do not reflect fair market values. FVP is commonly used during periods of high market volatility. Over the long term, the impact of FVP tends to net to zero.

TABLE 5
Majority of Invest529 investment options met or exceeded their benchmarks for most periods

for the period ending March 31, 2024

	1 year	3 years	5 years	10 years
Actively managed options				
Met or exceeded benchmark	8	8	12	5
Total number of options	14	13	12	7
Passively managed options				
Met or exceeded adjusted benchmark	3	6	6	7
Total number of options	9	9	9	8

SOURCE: Virginia529 program data.
NOTE: The total number of investment options in each period can differ because longer-term performance data may not be available for newer options. Performance is reported net of investment and administrative fees. Passively managed options are expected to provide returns equal to their benchmark index, less any fees charged to participants. Benchmarks were adjusted to account for the estimated impact of fees. Some passively managed options still trailed the benchmark after this adjustment was made.

Invest529 received upgraded rating from Morningstar in 2023

In 2023, Morningstar upgraded its rating of the Invest529 program from bronze to silver. The ratings firm cited a solid investment team, sensible changes to Invest529 portfolios, and an attractive price as the primary reasons for the upgrade. Morningstar had downgraded Invest529 from silver to bronze in 2021 following the departure of Virginia529's investment director. In 2020, Morningstar downgraded the program from the gold to silver rating, citing an updated rating system—which takes a positive view of exclusively indexed funds (which Invest529 is not)—as the principal reason for its downgrade. Morningstar ratings are an important measure of the quality and cost of an education savings plan and may be used by individuals to decide which type of savings plan to open.

3. CollegeAmerica program

CollegeAmerica is an education savings program offered under a partnership between Virginia529 and Capital Group, a private mutual fund company. CollegeAmerica accounts are sold through private financial advisers and invested in a suite of American Funds mutual funds. Program participants contribute to individual accounts and work with their adviser to determine how money is invested. Investment earnings are exempt from federal taxes as long as they are used to pay for qualified education expenses, such as tuition, books, and housing. For state residents, Virginia also exempts earnings from state taxes and offers an income tax deduction for contributions made to this and other Virginia529 college savings programs. Funds from CollegeAmerica accounts can be used at institutions in Virginia and other states. The program distributed $5.9 billion to participants in FY23.

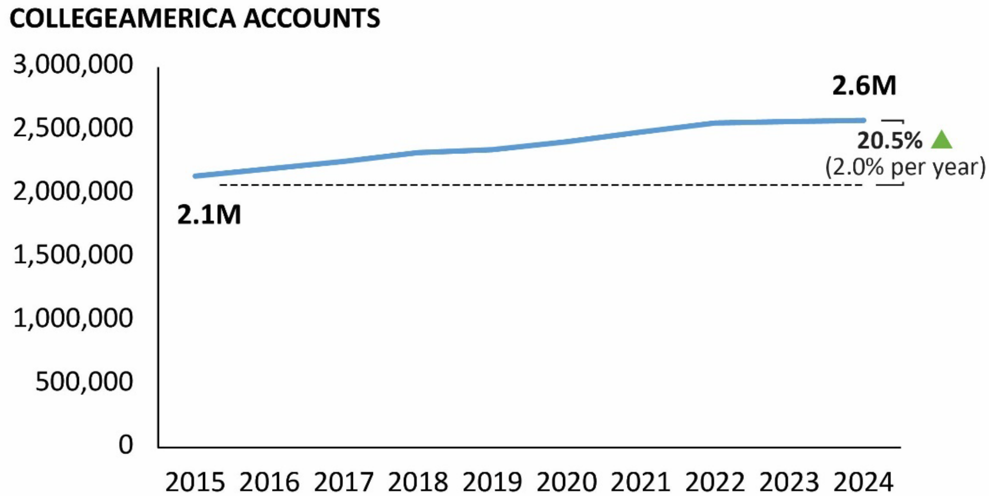
CollegeAmerica participation and assets continue to grow

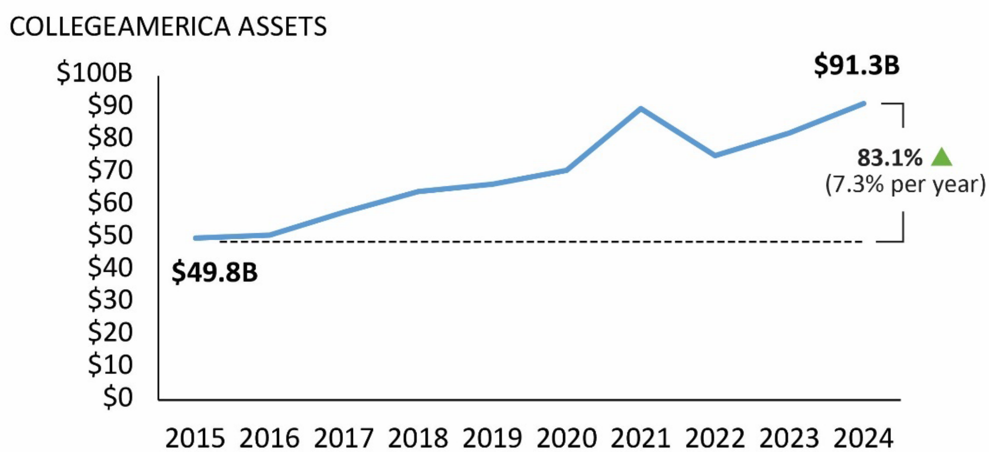
The CollegeAmerica program has increased over the past 10 years in both the number of participant accounts and the total assets under management (Figure 6). The number of CollegeAmerica accounts increased an average of 2 percent per year from FY15 to FY24. The value of assets under management increased substantially faster over this period (by more than 80 percent) from $49.8 billion to $91.3 billion. This growth is attributable to both new contributions and investment returns. The increase in CollegeAmerica participation follows a nationwide trend for college savings programs, which have grown steadily over the past decade.

CollegeAmerica investment options showed mixed to poor performance

The CollegeAmerica program held an aggregate of $91.3 billion in assets as of March 31, 2024. In consultation with their adviser, program participants have 43 investment options from Capital Group's American Funds mutual funds. Investment options include traditional individual investment options, such as stock and bond investments, target-date portfolios that automatically adjust over time as the beneficiary approaches college age, and diversified portfolios ("Portfolio Series") based on different investment strategies, such as growth or capital preservation. All CollegeAmerica options are actively managed, with the goal of providing better returns or lower risk than the overall market.

FIGURE 6
CollegeAmerica assets grew substantially faster than accounts over the past 10 years





SOURCE: Virginia529 program data.
NOTE: Figures are reported as of June 30, end of the fiscal year, except for 2024, which is reported as of March 31.

CollegeAmerica investment options showed mixed to poor performance as of March 31, 2024 (Table 6). A majority of the individual series options overperformed their benchmarks for the five- and 10-year periods, but less than half of these options overperformed for the one- and three-year periods. The performance of the college target-date and portfolio series options was less positive. All but two of the college target-date options underperformed applicable benchmarks in the one-, three-, five-, and 10-year periods. Four of the six portfolio series options underperformed for the one-, five-, and 10-year periods, including by more than 200 basis points for the one-year period. Virginia529's board approves the investment options available through the CollegeAmerica program, and American Funds manages the options through a partnership with Virginia. As a result, key responsibilities of Virginia529 are monitoring the funds and ensuring that they are managed well.

TABLE 6
Most CollegeAmerica investment options underperformed during each time period

for the period ending March 31, 2024

	1-year	3-year	5-year	10-year
Individual options				
Met or exceeded benchmark	11	15	16	16
Total number of options	31	31	31	28
College Target-Date options				
Met or exceeded benchmark	2	1	0	0
Total number of options	6	6	5	3
Portfolio Series options				
Met or exceeded benchmark	2	3	2	2
Total number of options	6	6	6	6

SOURCE: Virginia529 program data.
NOTE: The total number of investment options in each period can differ because longer-term performance data may not be available for newer options. Performance is reported net of investment fees. The number of investment options can change because longer-term performance data is not available for newer options. Investment performance comparisons are for the "A" share class; 84 percent of CollegeAmerica assets are invested in A shares. Individual options and portfolio series options are benchmarked against the Lipper Funds Index. College target-date options are benchmarked against the Lipper Funds Average.

CollegeAmerica received upgraded rating from Morningstar in 2023

Morningstar upgraded its rating of the CollegeAmerica program from bronze to silver in 2023. The ratings firm cited the Capital Group's investment process, which resulted in changes to the equity allocations of several CollegeAmerica options in 2022 and 2023, as the reason for the upgrade. Morningstar had downgraded the CollegeAmerica program from silver to bronze in 2020, and the program remained at a bronze rating in 2021 and 2022. Morningstar cited concerns with the program's fee levels as the reason for the downgrade.

4. ABLE programs

The Achieving a Better Life Experience (ABLE) program is intended to offer tax-advantaged 529A savings accounts for individuals with disabilities. Account funds can be used to pay for qualified disability expenses such as education, training, medical care, housing, and transportation. A 2014 federal law authorized state-run ABLE programs, and Virginia became the first state to enact ABLE legislation in March 2015.

Under Virginia's ABLE act, Virginia529 was given responsibility to establish and manage programs for ABLE savings accounts. Virginia529's two ABLE programs are modeled on its two education savings programs. Both Virginia529 ABLE programs are national programs, open to enrollment by residents of Virginia and other states. Virginia529's ABLEnow direct-sold program opened in 2016, and the ABLEAmerica adviser-sold program opened in 2018.

ABLEnow direct-sold program

The ABLEnow program is a "direct-sold" investment program similar to Invest529. Under this program, participants establish investment accounts directly with Virginia529. Virginia529 is responsible for customer service, investment oversight, and marketing. As with Invest529, Virginia529 offers ABLEnow participants several investment options through external investment management firms. Virginia529 retains PNC Bank as the program's custodian. The company handles most aspects of account management, including program enrollment, contributions, and disbursements.

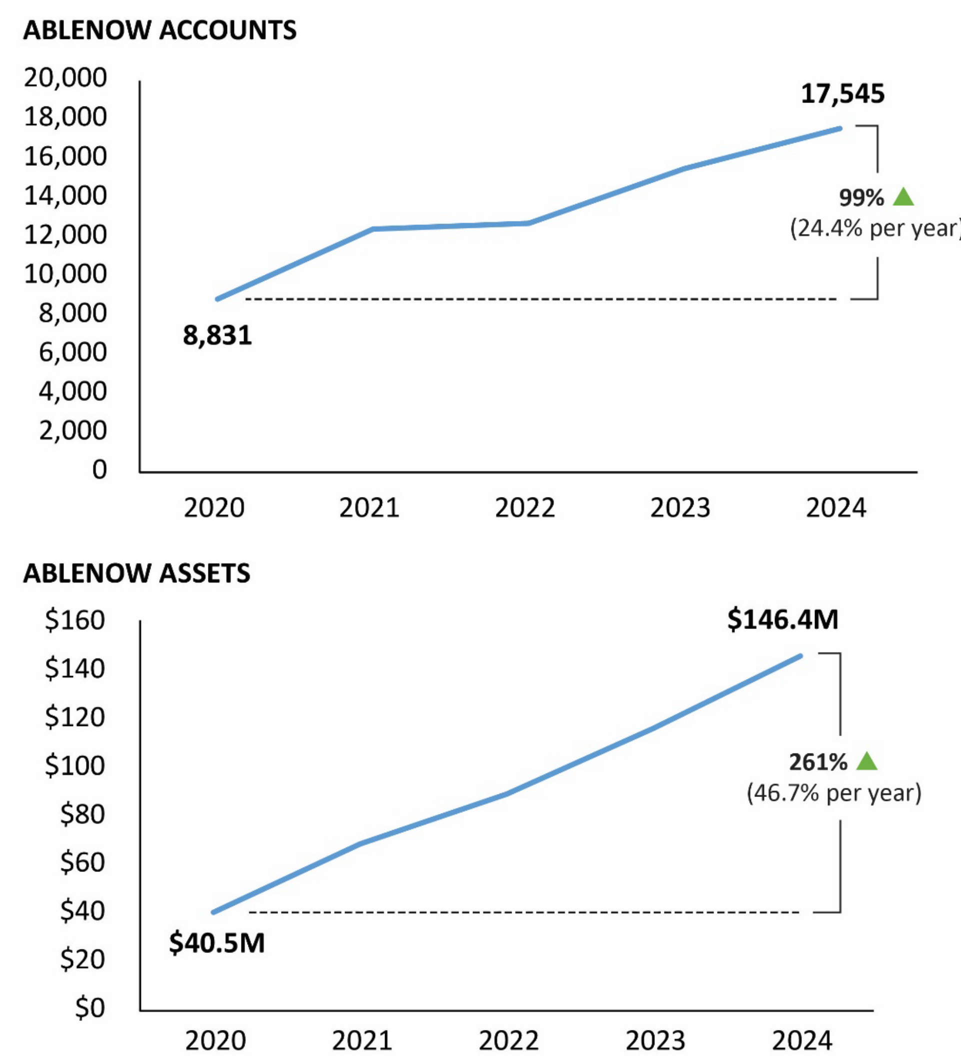
ABLEnow participation has increased, and the majority of investment options met or exceeded their benchmarks

The ABLEnow program is relatively small compared with Virginia529's education savings programs. This is for two main reasons: (1) ABLEnow is relatively new, and (2) the potential customer base is much smaller and more difficult to reach than the customer base for education savings. Furthermore, ABLE programs have requirements set by federal statute—such as annual contribution limits and that the beneficiary must also be the account holder—that may make the programs less appealing, according to Virginia529 staff.

Though it remains relatively small, the ABLEnow program continues to grow rapidly in the number of accounts and total assets (Figure 7). The number of accounts nearly doubled in the past five years, increasing from 8,831 accounts in FY20 to more than 17,500 accounts as of March 31, 2024. Total assets more than tripled over this period, increasing from $40.5 million to $146.4 million.

ABLEnow offers four investment portfolios that vary in asset allocation and investment return potential. They include aggressive growth, moderate growth, and conservative income portfolios, which are composed of different proportions of equity (stocks) and fixed income (bond) investments. These three options are passively managed and designed to track market indices. The fourth option is a money market portfolio that invests entirely in cash and cash equivalents. Because ABLEnow is relatively new, the program intentionally offers fewer and less expensive (passively managed) investment options. The investment advisory committee and board will consider additional options as the program grows.

FIGURE 7
ABLEnow accounts and assets have grown rapidly over the last 5 years



SOURCE: Virginia529 program data.
NOTE: Figures are reported as of the June 30 end of the fiscal year except for 2024, which is reported as of March 31.

At least two of the four ABLEnow investment portfolios overperformed their benchmarks (adjusted for fees) for the one-, three-, and five-year periods as of March 31, 2024 (Table 7). The underperformance occurred primarily with aggressive and moderate growth portfolios, which contain varying portions of public equities. Both portfolios underperformed for the three- and five-year periods. In all cases of underperformance, the portfolios underperformed by less than 10 basis points.

TABLE 7
Majority of ABLEnow options met or exceeded their benchmarks

for the period ending March 31, 2024

	1-year	3-year	5-year	10-year	Since inception
Portfolio options					
Met or exceeded adjusted benchmark / Total number of options	3/4	2/4	2/4	n/a	3/4

SOURCE: Virginia529 program data.
NOTE: Passively managed options are expected to provide returns equal to their benchmark index, less any fees charged to participants. In all cases of underperformance, the portfolios underperformed by less than 10 basis points. Benchmarks were adjusted to account for the estimated impact of fees. Inception of all investment options was 2016. As a result, returns for the 10-year period are not yet available.

ABLEAmerica adviser-sold program

The ABLEAmerica program is an "adviser-sold" investment program similar to the CollegeAmerica education savings program. Under this program, participants establish investment accounts through private financial advisers. Virginia529 partners with Capital Group, its CollegeAmerica partner, to manage the program. Capital Group handles most administration and investment management duties. Virginia529 retains the authority to approve investment options and other aspects of the program's operations. ABLEAmerica continued to grow rapidly over the last two years. Total assets in the program more than doubled over this period, and the number of accounts increased more than 50 percent. The program had 3,035 accounts and $54 million in assets as of March 31, 2024.

Similar to ABLEnow, the ABLEAmerica program offers seven investment portfolios that vary in their asset allocation and investment return potential. The ABLEAmerica portfolios showed mixed performance (Table 8). Three of the seven portfolios—Growth, Moderate Growth and Income, and Preservation—underperformed for the one-, three-, and five-year periods. Investment performance for the 10-year period is not available because the ABLEAmerica program became operational in 2018.

TABLE 8
ABLEAmerica options showed mixed investment performance

for the period ending March 31, 2024

	1-year	3-year	5-year	10-year
Portfolio options				
Met or exceeded adjusted benchmark	3	4	3	n/a
Total number of options	7	7	7	

SOURCE: Virginia529 program data.
NOTE: Performance is reported net of fees. Portfolio options are benchmarked against the Lipper Funds Index for the 3- and 5-year periods. Options are benchmarked against the average of the Lipper category for the 1-year period because Index data was not available. Inception of all investment options was 2018. As a result, returns for the 10-year period are not yet available.

5. RetirePath Virginia program

RetirePath Virginia is a state-sponsored automatic-enrollment retirement savings program for certain private-sector employees in Virginia. The program is intended to provide retirement savings options to some employees who do not have access to retirement savings programs through their employers. Virginia529 implemented the program in response to legislation enacted by the 2021 General Assembly (HB 2174), which directed it to administer the program, including enrolling eligible employers and employees and managing employees' savings. The legislation requires employers that employ at least 25 eligible employees and do not offer a qualified retirement plan to participate in the program. Employees are eligible for the program if they work at least 30 hours per week, are 18 or older, and earn Virginia wages. Virginia529 was directed to make the program available to employers and employees by July 1, 2023. The costs of implementing the program were funded by a non-interest-bearing loan of up to $2 million annually from the Virginia Department of Treasury, which Virgnia529 must repay out of program-generated fees once the program is cash-flow positive.

Virginia529 completed implementation of RetirePath Virginia and opened the program statewide on June 20, 2023, shortly before the legislative deadline of July 1. Before opening the program statewide, Virginia529 piloted the program with 10 employers to test their processes for registering eligible employers and employees and remitting payroll deduction contributions for these employees.

The Virginia529 board made several key decisions regarding the program. In June 2022, the board selected Vestwell, in partnership with Bank of New York (BNY) Mellon, to be the program administrator. Vestwell has responsibilities related to program compliance, account opening, employer onboarding, marketing and communications, and online portals for employers and employees. BNY Mellon is responsible for record keeping and custodial services, financial reporting, and mutual fund accounting. In April 2022, the board approved a Roth IRA as the default IRA for individual participants (with the option of a traditional IRA), set the default contribution rate at 5 percent, and adopted an automatic escalation of 1 percent each year. (The maximum automatic escalation contribution rate is 10 percent, though participants can choose to contribute more.) The board also selected BlackRock as the investment manager and approved a set of basic investment options employees can choose from to invest their savings. The options are passively managed index funds and include target date funds, U.S. and international equity funds, a fixed income fund, and a capital preservation fund.

RetirePath Virginia began registering accounts since opening in 2023. As of March 31, 2024, 689 employers had registered with the program, and another 2,476 employers had certified an exemption to the program's requirements (sidebar). The program had 4,076 employee savings accounts and approximately $1.7 million in assets under management through the first quarter of 2024. Funded accounts had an average of $413

Employers may be **exempt from the requirements of RetirePath Virginia** if they (i) already offer a qualified retirement plan, (ii) employ fewer than 25 eligible employees working at least 30 hours per week, or (iii) have been in business less than two years.

in retirement savings as of March 31, 2024. Funded accounts and total assets are heavily concentrated among employees under the age of 45, consistent with the program's goal to improve retirement savings among younger private-sector employees.

Virginia529 is conducting outreach to noncompliant employers and considering financial penalties

To ensure employer compliance with RetirePath Virginia, Virginia529 is conducting outreach to employers about program requirements. Employers may be noncompliant with the program for three reasons:

- failure to register with the program or certify an exemption from the program's requirements,
- failure to submit payroll contributions for eligible employees, or
- failure to add new employees or update employee information.

The largest area of employer noncompliance is the failure to register or certify an exemption to the program's requirements, according to Virginia529 staff. Virginia529 set a deadline of February 15, 2024, for employers to register with the program and enroll eligible employees or certify an exemption. However, an unknown percentage of employers that are likely not exempt from program requirements have yet to register and enroll their employees.

To date, Virginia529's efforts to ensure employer compliance with RetirePath have focused primarily on outreach to employers about the program's requirements. Virginia529 sent multiple notices to potentially eligible employers before the registration deadline of February 15, 2024, and the agency has sent additional notices in the months since the deadline. Virginia529 is also conducting webinars to help employers understand the program and its requirements. In addition, Virginia529 is examining Internal Revenue Service records to identify employers that already have a qualified retirement plan and, therefore, are exempt from participating in the program.

As required by HB 2174, in 2021 Virginia529 created a **retirement program advisory committee** to assist the board and staff with developing and managing the program. The advisory committee has nine members, including four from the Virginia529 board as well as private-sector representatives.

Virginia529 has also begun developing financial penalties for employers that do not comply with RetirePath Virginia requirements. Under the Code of Virginia, Virginia529 is required to develop enforcement mechanisms that include penalties of up to $200 per eligible employee each year. Virginia529 staff have developed options for assessing a penalty of $100 per employee for initial noncompliance and an additional $100 for continued noncompliance, or assessing the maximum of $200 for the initial noncompliance. Under the timeline proposed by Virginia529 staff, it would not begin assessing penalties until the third quarter of FY25. Before financial penalties could be assessed against noncompliant employers, the Retirement Program Advisory Committee (sidebar) would need to recommend a system of penalties to the Viriginia529 board, and the board would need to approve them.

Developing a penalty system for RetirePath, and eventually assessing fines against noncompliant employers, will likely be critical to the program's success. However, as Virginia529 implements a financial penalties system, it will be important to achieve a balance between providing employers with the opportunity to come into compliance and the need to assess penalties for persistent, deliberate noncompliance. Some employers that are required to participate and have not registered may be considering developing their own retirement savings programs for their employees. The program has also been in operation for less than a year, and Virginia529 staff said the program's eligibility requirements—at least 25 employees working at least 30 hours per week—can make it difficult for employers to determine whether they are required to participate.

Virginia529 approved a fee structure for employees participating in RetirePath Virginia

In late 2022, the Virginia529 board approved an annual fee structure for employees participating in RetirePath that comprises both flat account-based fees and variable asset-based fees (Table 9). Most of the fees cover Vestwell's costs to administer the program. Fees are also assessed for BlackRock to manage the investments and to recover Virginia529's cost of implementing and operating the program. The Virginia529 portion of the fee revenue will eventually be used to repay the loan from the Department of Treasury for implementing the program. For a retirement savings account invested in a target-enrollment fund that grows to $1,000 by the end of the year, the fees would total $28.45—or 2.85 percent of the final account balance.

RetirePath fees could possibly be reduced as the program grows. Under the contract with Vestwell, the company's annual fee will decrease from $24 to $20 per account, and its asset-based fee will decrease from 15 to 10 basis points, when the program reaches more than $2 billion in total assets and 200,000 accounts. (The asset-based fee will continue to decrease as a percentage of an account balance as the balance grows over time.) Virginia529 may also be able to reduce its fees as program assets grow and when it finishes repaying its Treasury loan. However, current statutory restrictions on employer and employee eligibility to participate in RetirePath are likely to slow growth of the program and limit the extent to which fees can be reduced. According to Virginia529, restricting the program to employers with at least 25 employees—from employers with at least 5 employees as proposed in the introduced version of HB 2174—reduces the pool of employees eligible to participate in the program by more than 500,000 and leaves more than 40 percent of private-sector employees ineligible to participate. (Virginia529 has not been able to quantify the impact of the 30-hour per week restriction on the pool of eligible employees because reliable data on the number of hours private-sector employees work is not available.) Virginia529 staff have stated that relaxing these restrictions will be important to the long-term success of the program.

TABLE 9
Example of RetirePath Virginia fees paid by an employee with a $1,000 account

Fee source	Fee rate	Example of annual cost to employee
Program manager (Vestwell)	$24 per account	$24
	0.15% of account balance	0.75
Virginia529	$3 per account	3
	0.05% of account balance	0.25
Investment manager (BlackRock)	0.02–0.12% of account balance	0.45
Total fees		***$28.45***

SOURCE: JLARC analysis of information from Virginia529.
NOTE: Annual cost to saver assumes steady retirement contributions throughout the year, an end-of-year account balance of $1,000, and an average account balance of $500. Percentage fees are assessed on the $500 average balance. Investment manager fee based on a 0.09 percent fee for a target enrollment fund. Total annual cost on an account with a $1,000 balance will range from $28.10 to $28.60 depending on the type of investment fund the employee chooses.

6. Agency and program management

Virginia529 agency and program operations are funded almost entirely through fees charged by its college savings programs. The Virginia529 board approves the agency's budget and all changes to programs, including the fees charged to participants. Like all state agencies, Virginia529's spending must be authorized by the General Assembly through the appropriation act.

Virginia529's spending increased more than 30 percent over the last 5 years, largely because of increased staffing and IT expenses

Virginia529's agency budget increased $9.8 million over the five-year period from FY19 to FY23 (Table 10). This represents a 34 percent increase, with an average annual increase of 8.5 percent. Much of the increase reflects spending growth on personal services (staff) and information technology (IT)—the fastest-growing categories of agency spending over the past five years.

TABLE 10
Virginia529's operating expenditures increased 34 percent over the last 5 years

	FY19 ($M)	FY23 ($M)	Change ($M)	Change (%) [a]
Personal services	$12.6	$18.8	$6.1	48.6%
Marketing & communications	6.4	7.7	1.4	21.3
Professional services	4.4	4.1	-0.3	-6.9
Information technology	1.4	3.9	2.5	174.2
Facilities and leases	1.3	1.2	-0.5	-3.7
Other [b]	1.1	1.2	0.1	10.3
Access and affordability initiatives [c]	2.0	2.0	0	0
Total	**$29.1**	**$38.9**	**$9.8**	**33.6%**

SOURCE: Virginia529 program data: budget versus actual reports.
NOTE: Numbers may not sum because of rounding.
[a] Percentage and dollar changes in spending may not equal figures in table because of rounding. [b] Other expenses include administrative services; meetings, conferences, and training; supplies and materials; and professional development, memberships, and subscriptions. [c] Access and affordability initiatives include SOAR Virginia and seven additional programs being undertaken by other organizations to support higher education access and affordability in Virginia.

Virginia529's spending on personal services increased nearly 50 percent between FY19 and FY23, from $12.6 million to $18.8 million. The increase reflects growth in the number of staff, with 36 new positions added over this period—a nearly 30 percent increase in total FTEs. The staffing increase was driven by growth in Virginia529's customer base as the agency implemented new programs (Tuition Track Portfolio and RetirePath Virginia), and existing programs grew, according to Virginia529 staff. Most of the new positions were in the finance and information technology divisions. The finance division added 11 new customer service and financial operations positions, reflecting the growth in new and existing programs. The information technology division also added 11 new positions between FY19 and FY23, including new positions in security, systems engineering, and application development. The additional IT positions reflect the growing complexity of the agency's operations and the number and sophistication of cybersecurity attacks, according to Virginia529 staff. The overall increase in spending on personal services also reflects increases in total compensation, which were driven partly by salary increases for state employees and Virginia529's adoption of a comprehensive compensation plan.

Virginia529's IT spending (not including compensation for IT staff) nearly tripled between FY19 and FY23, increasing from $1.4 million to $3.9 million over this period. Increased IT expenditures reflect several factors, according to Virginia529 staff, including

- growth in cybersecurity threats;
- more stringent IT security standards, such as faster response times when cybersecurity incidents occur;
- increases in licensing fees;
- a new customer contact platform; and
- cloud initiatives intended to improve IT service levels and resiliency.

Over the FY21–22 biennium, Virginia529 also spent an additional $15.5 million to support higher education access and affordability programs. This represented a substantial increase in funding for its access and affordability initiative, which totaled $2 million annually for the SOAR Virginia program in previous fiscal years. The programs are administered by public and private organizations in Virginia and provide mentoring, coaching, academic and financial aid advising, support services, and scholarships for students at risk of not enrolling in or completing a post-secondary program. The organizations anticipate spending their remaining funds by the end of FY25, according to Virginia529 staff. Virginia529 has not received legislative authority to provide any additional funding for these programs.

Proposed legislation changed the agency name and addressed DB529 actuarial surplus funds

The General Assembly makes changes to Virginia529 programs through legislation. The General Assembly also approves Virginia529's appropriations for administrative spending, access and affordability initiatives, and payments made under its defined benefit programs.

The 2024 General Assembly enacted legislation (HB 1133) changing Virginia529's agency name from the Virginia College Savings Plan to the Commonwealth Savers Plan. The name change recognizes the agency's broadened mission to include the ABLE disability savings programs and the RetirePath Virginia retirement savings program.

In recent years, the General Assembly has considered but not enacted legislation that would have removed actuarial surplus funds from the DB529 fund and used them to support higher education access and affordability. The 2024 General Assembly considered SB 501 (and its companion HB 1305), which in its amended form would have directed the Virginia529 board to allocate an additional $500 million in actuarial surplus funds to a newly created Virginia College Opportunity Endowment to support scholarships for low-income students at 12 of the state's 15 public higher education institutions. The legislation would have created an independent advisory committee to annually review the availability of additional surplus funds and make a recommendation to the House Appropriations and Senate Finance and Appropriations committees on any additional funds that should be allocated to the endowment. Similar legislation was proposed during previous General Assembly sessions. The legislation was broadly consistent with the recommendations and options developed by JLARC in its 2022 review of *Defined Benefit 529 Surplus Funds*.

In 2023, the General Assembly considered but did not enact SB 1519/HB 2396/HB 2409, which would have expanded Virginia529's mission to include funding programs that enhance the accessibility and affordability of higher education for underserved and underrepresented communities. The legislation also would have given Virginia529 authority to use DB529 actuarial surplus funds to support such programs and provide enhanced tuition benefits to contract holders.

In lieu of enacting legislation directing or authorizing the use of DB529 surplus funds for higher education access and affordability, the General Assembly established two workgroups to review the issue. The General Assembly included language in the 2023 Appropriation Act establishing a workgroup to consider JLARC's 2022 review of DB529 actuarial surplus funds and make recommendations in three areas:

- the method, timing, and amount of any withdrawals from the DB529 fund, including an appropriate funded status to ensure that obligations to defined benefit contract holders will be met;
- guidelines for using actuarial surplus funds, including returning funds to Legacy Prepaid529 contract holders and supporting higher education access and affordability; and
- ongoing oversight of the DB529 fund to determine the amounts of surplus funds that can be removed in future years.

The workgroup consists of the staff directors of the House Appropriations and Senate Finance and Appropriations committees, the state treasurer, the investment director of Virginia529, and three nonlegislative citizen members with investment or actuarial expertise. The workgroup is required to issue a final report by October 15, 2024.

During the 2024 General Assembly session, the chair of the Senate Finance and Appropriations Committee designated a workgroup of five senators to examine potential ways that actuarial surplus funds from the DB529 fund could be used. The workgroup is intended to build on the findings and recommendations of the workgroup established in the 2023 Appropriation Act.

Four new members were appointed to the Virginia529 board in the last two years

The Virginia529 board is a supervisory board that is directly vested with authority for managing and overseeing most aspects of Virginia529. The board has 11 members, including four appointed by the governor, three appointed by the General Assembly, and four ex-officio members (the state treasurer, state comptroller, a representative of the State Council of Higher Education for Virginia, and a representative of the Virginia Community College System). Board members serve four-year terms. The board appoints the chief executive officer who oversees the day-to-day management of Virginia529 and its programs. The board also appoints the investment director to oversee the management of program assets.

Since July 2022, four new members have been appointed to the Virginia529 board:

- Jessica Holte was appointed by the House of Delegates to the Virginia529 board in January 2024 to fill an unexpired term. Her term will expire in June 2024. Holte is a retirement plan specialist for Blueprint Financial.
- Ricardo Chamorro was appointed by the governor to the Virginia529 board in July 2023. His term will expire in June 2027. Chamorro leads consumer banking and corporate strategy for PenFed, the second largest federal credit union in the country.
- Susan Ferguson was appointed by the governor to the Virginia529 board in July 2023. Her term will expire in June 2027. Ferguson is a CPA and full-time lecturer at James Madison University's School of Accounting.
- Lisa N. Jennings was appointed by the governor to the Virginia529 board in July 2022. Her term will expire in June 2026. Jennings retired from PenFed, where she served most recently as first senior executive vice president.

Dante Jackson and Lisa N. Jennings were elected by the Virginia529 board to serve as chair and vice-chair, respectively, for 2024. The chair and vice-chair serve one-year terms.

Appendix A: Agency response

As part of an extensive validation process, the state agencies and other entities that are subject to a JLARC assessment are given the opportunity to comment on an exposure draft of the report. JLARC staff sent an exposure draft of this report to the Virginia College Savings Plan (Virginia529). Appropriate corrections resulting from technical and substantive comments are incorporated in this version of the report. This appendix includes a response letter from Virginia529.

June 24, 2024

Mr. Hal E. Greer, Director
Joint Legislative Audit and Review Commission
919 East Main Street, Suite 2101 VIA EMAIL
SunTrust Building
Richmond, Virginia 23219

Re: Virginia529 Oversight Report

Dear Mr. Greer:

The Virginia College Savings Plan (Virginia529) thanks you for the opportunity to review and comment on the exposure draft of the *Virginia529 Oversight Report* (the Report). Virginia529 appreciates the professionalism of the review and the collaboration and sharing of information and ideas between JLARC staff and the Virginia529 staff.

As an independent non-general fund agency, Virginia529 has multiple statutory mandates and missions, all centered on financial wellness and preparation for the future of Virginia citizens. We look forward to discussing the renaming of Virginia529 to the Commonwealth Savers Plan (Commonwealth Savers), which will be effective as of July 1, 2024, when the Commission next meets. We appreciate the unanimous support of the General Assembly in adopting this name change which better reflects the breadth and reach of our mission and programs that have the potential to touch every citizen of the Commonwealth.

The longest standing mandate centers on educational access and attainment, which Virginia529 has been addressing since it opened the legacy Prepaid529 program in 1996 (closed to new participants in 2019) and now also includes Invest529℠ (and the Tuition Track Portfolio, successor to Prepaid529) and CollegeAmerica®. Virginia529 also meets its statutory mission to help make college more affordable and accessible to all Virginians through its access and affordability initiatives, started fourteen years ago with the SOAR Scholars program and expanded in recent years to include the initiatives of SOAR Virginia®, the further expansion of which is the subject of ongoing consideration by Virginia529 and the General Assembly. Pursuant to 2015 legislation, Virginia529 opened the ABLEnow® program in 2016 and ABLEAmerica in 2019, providing tax-advantaged savings options to individuals with disabilities, and pursuant to 2021 legislation, Virginia529 in June 2023 launched RetirePath Virginia℠, an automatic-enrollment payroll deduction individual retirement account (IRA) savings program for eligible working Virginians without access to retirement savings at work.

We generally agree that the Report accurately describes Virginia529's responsibilities and its programs. We are honored to administer (i) the largest 529 plan in the country, providing quality investment options at costs which are among the lowest in the country while also advancing our statutory mandate to enhance postsecondary educational access and affordability for all Virginians, (ii) the largest independent ABLE program in the country and (iii) the first state-facilitated retirement program in the South, all while advancing financial education, awareness and wellness through our outreach to and programs for individuals and families across Virginia.

As always, Virginia529 appreciates the thought and effort put into the Report and looks forward to presenting to the Commission on July 1, 2024, and answering any questions members may have.

Sincerely,

Mary G. Morris, CEO

cc: Members, Virginia529 Board

VIRGINIA529 OVERSIGHT REPORT 2022

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