

SENATE BILL 557

F5

7lr3085

By: **Senators Bates, Cassilly, Eckardt, Edwards, Hough, Salling, and Serafini**
Introduced and read first time: February 1, 2017
Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Maryland Education Opportunity Account Program – Established**

3 FOR the purpose of establishing the Maryland Education Opportunity Account Program;
4 stating a certain goal of the State; authorizing a parent of an eligible student to enroll
5 in the Program; declaring a certain student remains an eligible student under
6 certain circumstances; establishing a Maryland Education Opportunity Account
7 Authority; establishing the membership of the Authority; authorizing certain
8 members to designate a representative with certain rights, powers, and duties;
9 requiring members to take a certain oath before taking office; establishing the term
10 of each member; authorizing the Governor to remove a member under certain
11 circumstances; requiring the Authority to elect a chair and authorizing the Authority
12 to elect additional officers considered necessary; requiring the Authority to set the
13 time and location of meetings; prohibiting a member of the Authority from receiving
14 compensation; entitling a member of the Authority to a certain reimbursement;
15 requiring a member of the Authority to file a certain public disclosure; requiring the
16 Authority to develop, establish, administer, manage, and promote the Program;
17 requiring the Authority to adopt certain policies and procedures; requiring the
18 Authority to provide a certain statement at least annually to each account holder;
19 authorizing the Authority to issue certain requests for proposals subject to certain
20 criteria; authorizing the Authority annually to withhold up to a certain amount for
21 administrative costs; requiring the Governor to provide a certain amount in the State
22 budget to the Authority; requiring the Authority to transfer a certain amount into
23 certain accounts; stating that certain amounts are assets of the State until a certain
24 event; establishing certain conditions for enrollment in the Program; exempting the
25 Authority, the Program, and accounts from being subject to the Insurance Article;
26 prohibiting a person from attaching, garnishing, or otherwise seizing any account,
27 asset, or benefit of the Program; requiring the Legislative Auditor to conduct a
28 certain audit; requiring the Authority to obtain a certain audit from a service
29 provider within a certain time frame; requiring the Authority to report to the
30 General Assembly on or before a certain date; defining certain terms; and generally
31 relating to the Maryland Education Opportunity Account Program.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – Education
3 Section 5–701 through 5–710 to be under the new subtitle “Subtitle 7. Maryland
4 Education Opportunity Account Program”
5 Annotated Code of Maryland
6 (2014 Replacement Volume and 2016 Supplement)

7 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
8 That the Laws of Maryland read as follows:

9 **Article – Education**

10 **SUBTITLE 7. MARYLAND EDUCATION OPPORTUNITY ACCOUNT PROGRAM.**

11 **5–701.**

12 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
13 INDICATED.

14 (B) “ACCOUNT” MEANS AN INDIVIDUAL ACCOUNT ADMINISTERED BY THE
15 AUTHORITY.

16 (C) “AUTHORITY” MEANS THE MARYLAND EDUCATION OPPORTUNITY
17 ACCOUNT AUTHORITY.

18 (D) “ELIGIBLE STUDENT” MEANS A CHILD WHO IS AT LEAST 5 YEARS OLD
19 AND NO OLDER THAN 18 YEARS OLD WHO IS DOMICILED IN A GEOGRAPHIC
20 ATTENDANCE AREA THAT IS SERVED BY A PUBLIC SCHOOL RANKED IN THE BOTTOM
21 5% OF PUBLIC SCHOOLS BASED ON STATEWIDE ASSESSMENTS.

22 (E) “PARENT” MEANS A PERSON WHO IS A PARENT, GUARDIAN, CUSTODIAN,
23 OR OTHER PERSON WITH THE LEGAL AUTHORITY TO MAKE EDUCATION DECISIONS
24 FOR AN ELIGIBLE STUDENT.

25 (F) “PARTICIPATING SCHOOL” MEANS A NONPUBLIC ELEMENTARY OR
26 SECONDARY SCHOOL THAT MEETS THE REQUIREMENTS ESTABLISHED BY THE
27 AUTHORITY FOR PARTICIPATION IN THE PROGRAM.

28 (G) “PROGRAM” MEANS THE MARYLAND EDUCATION OPPORTUNITY
29 ACCOUNT PROGRAM.

30 (H) “QUALIFYING EXPENSE” INCLUDES:

- 1 (1) TUITION AND FEES AT A PARTICIPATING SCHOOL;
- 2 (2) TEXTBOOKS REQUIRED BY A PARTICIPATING SCHOOL;
- 3 (3) PAYMENT TO A LICENSED OR ACCREDITED TUTOR;
- 4 (4) PAYMENT FOR PURCHASING A CURRICULUM;
- 5 (5) TUITION AND FEES FOR AN ONLINE LEARNING PROGRAM;
- 6 (6) FEES FOR NATIONAL ASSESSMENTS OR EXAMINATIONS,
7 ADVANCED PLACEMENT EXAMINATIONS, AND ANY EXAMINATIONS RELATED TO
8 COLLEGE OR UNIVERSITY ADMISSION;
- 9 (7) CONTRIBUTION TO AN ELIGIBLE STUDENT'S QUALIFIED TUITION
10 PROGRAM ESTABLISHED UNDER § 529 OF THE INTERNAL REVENUE CODE;
- 11 (8) EDUCATION SERVICES FOR ELIGIBLE STUDENTS WITH
12 DISABILITIES PROVIDED BY A LICENSED OR ACCREDITED PRACTITIONER OR
13 PROVIDER;
- 14 (9) TUITION AND FEES AT A POSTSECONDARY INSTITUTION; AND
- 15 (10) TEXTBOOKS REQUIRED BY A POSTSECONDARY INSTITUTION.

16 **5-702.**

17 (A) THERE IS A MARYLAND EDUCATION OPPORTUNITY ACCOUNT
18 PROGRAM IN THE STATE.

19 (B) IT IS THE GOAL OF THE STATE THAT THE PROGRAM IS ESTABLISHED BY
20 JULY 1, 2018.

21 (C) (1) A PARENT OF AN ELIGIBLE STUDENT MAY ENROLL IN THE
22 PROGRAM.

23 (2) AFTER A PARENT IS ENROLLED IN THE PROGRAM, THE STUDENT
24 REMAINS ELIGIBLE FOR THE PROGRAM EVEN IF THE STUDENT IS NO LONGER AN
25 ELIGIBLE STUDENT.

26 **5-703.**

1 **(A) THERE IS A MARYLAND EDUCATION OPPORTUNITY ACCOUNT**
2 **AUTHORITY.**

3 **(B) THE AUTHORITY CONSISTS OF THE FOLLOWING SEVEN MEMBERS:**

4 **(1) THE STATE COMPTROLLER;**

5 **(2) THE STATE TREASURER;**

6 **(3) THE STATE SUPERINTENDENT OF SCHOOLS; AND**

7 **(4) FOUR MEMBERS OF THE PUBLIC APPOINTED BY THE GOVERNOR**
8 **WITH SIGNIFICANT EXPERIENCE IN FINANCE, ACCOUNTING, EDUCATION,**
9 **INVESTMENT MANAGEMENT, OR OTHER AREAS THAT CAN BE OF ASSISTANCE TO THE**
10 **AUTHORITY.**

11 **(C) A MEMBER DESIGNATED UNDER SUBSECTION (B)(1) THROUGH (3) OF**
12 **THIS SECTION MAY DESIGNATE AN EMPLOYEE TO REPRESENT THE MEMBER, WITH**
13 **THE FULL VOTING RIGHTS, POWERS, AND DUTIES OF THE MEMBER.**

14 **(D) BEFORE TAKING OFFICE, EACH APPOINTEE SHALL TAKE THE OATH**
15 **REQUIRED BY ARTICLE I, § 9 OF THE MARYLAND CONSTITUTION.**

16 **(E) (1) THE TERM OF OFFICE OF A PUBLIC MEMBER IS 4 YEARS.**

17 **(2) AT THE END OF A TERM A PUBLIC MEMBER CONTINUES TO SERVE**
18 **UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.**

19 **(3) A PUBLIC MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN**
20 **SERVES ONLY FOR THE REMAINDER OF THE TERM AND UNTIL A SUCCESSOR IS**
21 **APPOINTED AND QUALIFIES.**

22 **(4) A PUBLIC MEMBER IS ELIGIBLE FOR REAPPOINTMENT.**

23 **(F) THE GOVERNOR MAY REMOVE A PUBLIC MEMBER FOR INCOMPETENCE**
24 **OR MISCONDUCT.**

25 **(G) THE AUTHORITY, FROM AMONG THE MEMBERS, SHALL ELECT A CHAIR**
26 **AND MAY ELECT ADDITIONAL OFFICERS THAT THE AUTHORITY CONSIDERS**
27 **NECESSARY.**

28 **(H) THE AUTHORITY SHALL DETERMINE THE TIMES AND PLACES OF**
29 **MEETINGS.**

1 (I) A MEMBER OF THE AUTHORITY:

2 (1) MAY NOT RECEIVE COMPENSATION;

3 (2) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE
4 STANDARD STATE TRAVEL REGULATIONS; AND

5 (3) SHALL FILE A PUBLIC DISCLOSURE OF FINANCIAL INTERESTS AS
6 REQUIRED UNDER THE MARYLAND PUBLIC ETHICS LAW.

7 5-704.

8 (A) THE AUTHORITY SHALL DEVELOP, ESTABLISH, ADMINISTER, MANAGE,
9 AND PROMOTE THE PROGRAM.

10 (B) (1) THE AUTHORITY SHALL ADOPT POLICIES AND PROCEDURES
11 RELATING TO:

12 (I) THE DEVELOPMENT, ADMINISTRATION, MANAGEMENT, AND
13 PROMOTION OF THE PROGRAM;

14 (II) ENROLLMENT FOR PARTICIPATION IN THE PROGRAM;

15 (III) QUALIFYING EXPENSES UNDER THE PROGRAM AND
16 RECOVERY OF PROGRAM FUNDS THAT ARE NOT USED FOR QUALIFYING EXPENSES;

17 (IV) ACCOUNTING, MONITORING, AND AUDITING OF
18 DISTRIBUTIONS MADE FROM ACCOUNTS;

19 (V) INVESTMENT OF PROGRAM FUNDS;

20 (VI) REQUIREMENTS FOR PARTICIPATING SCHOOLS; AND

21 (VII) ACADEMIC STANDARDS AND ACCOUNTABILITY, INCLUDING
22 ANY ACADEMIC ASSESSMENTS THAT ELIGIBLE STUDENTS MAY BE REQUIRED TO
23 TAKE.

24 (2) THE AUTHORITY SHALL ADOPT ANY OTHER POLICIES AND
25 PROCEDURES NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

1 **(C) AT LEAST ANNUALLY, THE AUTHORITY SHALL ISSUE TO EACH ACCOUNT**
2 **HOLDER A STATEMENT THAT PROVIDES A SEPARATE ACCOUNTING FOR EACH**
3 **ELIGIBLE STUDENT WITH THE FOLLOWING INFORMATION:**

4 **(1) THE BEGINNING BALANCE;**

5 **(2) CONTRIBUTIONS TO THE ACCOUNT;**

6 **(3) DISTRIBUTIONS FROM THE ACCOUNT; AND**

7 **(4) THE ENDING BALANCE.**

8 **(D) (1) THE AUTHORITY MAY ISSUE REQUESTS FOR PROPOSALS TO**
9 **EVALUATE AND DETERMINE THE MEANS FOR THE ADMINISTRATION, MANAGEMENT,**
10 **PROMOTION, OR MARKETING OF THE PROGRAM.**

11 **(2) THE AUTHORITY SHALL CONSIDER PROPOSALS THAT MEET THE**
12 **FOLLOWING CRITERIA:**

13 **(I) ABILITY TO DEVELOP AND ADMINISTER AN INVESTMENT**
14 **STRATEGY FOR THE PROGRAM;**

15 **(II) ABILITY TO ADMINISTER FINANCIAL PROGRAMS WITH**
16 **INDIVIDUAL ACCOUNT RECORDS AND REPORTING; AND**

17 **(III) ABILITY TO MARKET THE PROGRAM.**

18 **(E) FOR ADMINISTRATIVE COSTS, THE AUTHORITY MAY ANNUALLY**
19 **WITHHOLD FROM EACH ACCOUNT AN AMOUNT NOT TO EXCEED 3% OF THE TOTAL**
20 **FUNDS ANNUALLY DEPOSITED INTO THE ACCOUNT.**

21 **5-705.**

22 **(A) (1) IN EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE**
23 **STATE BUDGET A GRANT TO THE AUTHORITY IN AN AMOUNT EQUAL TO THE**
24 **PRODUCT OF THE PER-PUPIL FOUNDATION AMOUNT, AS CALCULATED UNDER §**
25 **5-202 OF THIS TITLE, MULTIPLIED BY THE NUMBER OF ACCOUNTS.**

26 **(2) THE AUTHORITY SHALL TRANSFER INTO EACH ACCOUNT AN**
27 **AMOUNT EQUAL TO THE PER-PUPIL FOUNDATION AMOUNT PROVIDED UNDER**
28 **PARAGRAPH (1) OF THIS SUBSECTION MINUS ANY FEES CHARGED UNDER § 5-704 OF**
29 **THIS SUBTITLE.**

1 **(B) THE ACCOUNTS, THE FUNDS DEPOSITED IN THE ACCOUNTS, AND ANY**
2 **INVESTMENT EARNINGS OF THE ACCOUNTS ARE ASSETS OF THE STATE AND REMAIN**
3 **ASSETS OF THE STATE UNTIL DISTRIBUTED FOR QUALIFYING EXPENSES.**

4 **5-706.**

5 **AS A CONDITION OF ENROLLMENT IN THE PROGRAM, A PARENT OF AN**
6 **ELIGIBLE STUDENT SHALL SIGN AN AGREEMENT PROMISING:**

7 **(1) TO USE THE FUNDS IN THE ACCOUNT FOR QUALIFYING EXPENSES**
8 **IN ACADEMIC SUBJECTS INCLUDING ENGLISH LANGUAGE ARTS, MATHEMATICS,**
9 **SOCIAL STUDIES, AND SCIENCE; AND**

10 **(2) NOT TO ENROLL THE ELIGIBLE STUDENT IN A PUBLIC PRIMARY**
11 **OR SECONDARY SCHOOL OR PUBLIC CHARTER SCHOOL IN ANY YEAR THE PARENT IS**
12 **ENROLLED IN THE PROGRAM.**

13 **5-707.**

14 **(A) THE AUTHORITY, THE PROGRAM, AND ACCOUNTS ARE NOT SUBJECT TO**
15 **THE PROVISIONS OF THE INSURANCE ARTICLE.**

16 **(B) THE ASSETS AND INCOME OF THE PROGRAM ARE EXEMPT FROM STATE**
17 **AND LOCAL TAXATION.**

18 **5-708.**

19 **A PERSON MAY NOT ATTACH, GARNISH, OR OTHERWISE SEIZE ANY ACCOUNT,**
20 **ASSET, OR BENEFIT OF THE PROGRAM.**

21 **5-709.**

22 **(A) THE LEGISLATIVE AUDITOR SHALL AUDIT THE PROGRAM AS PROVIDED**
23 **UNDER TITLE 2, SUBTITLE 12 OF THE STATE GOVERNMENT ARTICLE.**

24 **(B) THE AUTHORITY SHALL OBTAIN AN ANNUAL AUDIT REPORT FROM A**
25 **SERVICE PROVIDER WITHIN 6 MONTHS OF THE END OF THE REPORTING PERIOD OF**
26 **THE SERVICE PROVIDER.**

27 **5-710.**

1 **ON OR BEFORE DECEMBER 31 EACH YEAR, THE AUTHORITY SHALL REPORT**
2 **TO THE GOVERNOR AND THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246**
3 **OF THE STATE GOVERNMENT ARTICLE, ON:**

4 **(1) THE SCHOOL DISTRICTS OF THE PARTICIPATING ELIGIBLE**
5 **STUDENTS;**

6 **(2) THE NUMBER OF PARTICIPATING ELIGIBLE STUDENTS; AND**

7 **(3) THE TOTAL AMOUNT OF FUNDING DISTRIBUTED TO THE**
8 **AUTHORITY UNDER THIS SUBTITLE.**

9 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
10 **1, 2017.**