

HOUSE BILL 649

F5, Q3
HB 1156/22 – APP

3lr2062

By: **Delegates Wivell, Arentz, Baker, Buckel, Chisholm, Ciliberti, Fisher, Ghrist, Hartman, Hinebaugh, Hornberger, Kipke, Mangione, McComas, Miller, M. Morgan, Nawrocki, Szeliga, and Valentine**

Introduced and read first time: February 6, 2023

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Primary and Secondary Education – Education Savings Account Program –**
3 **Established**

4 FOR the purpose of establishing the Education Savings Account program in the State
5 administered by the State Department of Education; allowing a subtraction
6 modification under the Maryland income tax for deposits into an education savings
7 account; and generally relating to the Education Savings Account program.

8 BY adding to

9 Article – Education

10 Section 9.12–101 through 9.12–106 to be under the new title “Title 9.12. Education
11 Savings Account”

12 Annotated Code of Maryland
13 (2022 Replacement Volume)

14 BY repealing and reenacting, without amendments,

15 Article – Tax – General

16 Section 10–208(a)

17 Annotated Code of Maryland
18 (2022 Replacement Volume)

19 BY adding to

20 Article – Tax – General

21 Section 10–208(cc)

22 Annotated Code of Maryland
23 (2022 Replacement Volume)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Education

TITLE 9.12. EDUCATION SAVINGS ACCOUNT.

9.12–101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “ACCOUNT” MEANS AN EDUCATION SAVINGS ACCOUNT OPENED WITH A PRIVATE FINANCIAL MANAGEMENT FIRM OR SIMILAR ENTITY THAT IS QUALIFIED BY THE DEPARTMENT UNDER THIS TITLE.

(C) (1) “ELIGIBLE STUDENT” MEANS A STUDENT WHO:

(I) IS ELIGIBLE TO ENROLL IN A PUBLIC SCHOOL IN THE STATE;
AND

(II) ATTENDED A PUBLIC SCHOOL, CHARTER SCHOOL, OR HOME SCHOOL PROGRAM IN THE STATE FOR NOT LESS THAN 100 DAYS DURING THE IMMEDIATELY PRECEDING FISCAL YEAR.

(2) “ELIGIBLE STUDENT” INCLUDES A STUDENT OF AN ACTIVE DUTY MILITARY MEMBER STATIONED IN THE STATE, REGARDLESS OF THE ATTENDANCE REQUIREMENTS UNDER PARAGRAPH (1) OF THIS SUBSECTION.

(D) “PARENT” MEANS A LEGAL RESIDENT OF THE STATE WHO IS A PARENT, A GUARDIAN, A CUSTODIAN, OR ANY OTHER PERSON WITH AUTHORITY TO ACT ON BEHALF OF THE ELIGIBLE STUDENT.

(E) “PRIVATE TUTORING” MEANS TUTORING SERVICES PROVIDED BY A TUTOR WHO:

(1) IS A TEACHER LICENSED IN ANY STATE;

(2) IS A SUBJECT MATTER EXPERT; OR

(3) IS OTHERWISE APPROVED BY THE DEPARTMENT.

(F) “PROGRAM” MEANS THE EDUCATION SAVINGS ACCOUNT PROGRAM ESTABLISHED UNDER THIS TITLE.

(G) (1) “QUALIFYING SCHOOL” MEANS ANY NONPUBLIC SCHOOL THAT

1 PROVIDES INSTRUCTION TO PRIMARY OR SECONDARY STUDENTS AND HAS NOTIFIED
2 THE DEPARTMENT OF ITS INTENTION TO PARTICIPATE IN THE PROGRAM AND
3 COMPLY WITH THE PROGRAM'S REQUIREMENTS.

4 (2) "QUALIFYING SCHOOL" DOES NOT INCLUDE A HOME SCHOOL
5 PROGRAM.

6 (H) "RESIDENT SCHOOL DISTRICT" MEANS THE SCHOOL SYSTEM IN THE
7 COUNTY IN WHICH THE STUDENT RESIDES.

8 9.12-102.

9 (A) (1) THERE IS AN EDUCATION SAVINGS ACCOUNT PROGRAM IN THE
10 STATE.

11 (2) THE DEPARTMENT SHALL ADMINISTER THE PROGRAM.

12 (B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE STATE GRANTS TO THE
13 ACCOUNT OF THE PARENT OF AN ELIGIBLE STUDENT TO PROVIDE FOR THE
14 EDUCATION OF THE ELIGIBLE STUDENT.

15 (C) A PARENT OF AN ELIGIBLE STUDENT SHALL BE QUALIFIED FOR A STATE
16 GRANT UNDER THE PROGRAM IF THE PARENT SIGNS AN AGREEMENT WITH THE
17 DEPARTMENT AGREEING:

18 (1) TO PROVIDE AN EDUCATION FOR THE ELIGIBLE STUDENT IN, AT A
19 MINIMUM, READING, GRAMMAR, SOCIAL STUDIES, AND SCIENCE THAT CONFORMS
20 TO EDUCATIONAL REQUIREMENTS FOR THE ELIGIBLE STUDENT'S GRADE LEVEL AS
21 ESTABLISHED BY THE DEPARTMENT;

22 (2) TO ENROLL THE ELIGIBLE STUDENT IN A PROGRAM THAT MEETS
23 REGULAR SCHOOL ATTENDANCE REQUIREMENTS;

24 (3) TO ENSURE THAT THE ELIGIBLE STUDENT WILL TAKE ALL
25 ASSESSMENTS REQUIRED UNDER STATE LAW;

26 (4) TO RELEASE THE RESIDENT SCHOOL DISTRICT FROM ALL
27 OBLIGATIONS TO EDUCATE THE ELIGIBLE STUDENT;

28 (5) TO NOT ENROLL THE ELIGIBLE STUDENT IN A PUBLIC SCHOOL OR
29 PUBLIC CHARTER SCHOOL EXCEPT FOR CONTRACTED SERVICES UNDER
30 SUBSECTION (E) OF THIS SECTION;

(6) TO USE ALL FUNDS RECEIVED UNDER THIS TITLE EXCLUSIVELY FOR THE ELIGIBLE STUDENT'S EDUCATION EXPENSES UNDER SUBSECTION (E) OF THIS SECTION IN KINDERGARTEN THROUGH GRADE 12;

(7) TO NOT TRANSFER ANY FUNDS RECEIVED UNDER THIS TITLE TO A BENEFICIARY THAT IS NOT THE ELIGIBLE STUDENT OR THE PARENT OF THE ELIGIBLE STUDENT, OR TO OTHERWISE TAKE POSSESSION OF FUNDS TO WHICH THE ELIGIBLE STUDENT OR PARENT OF THE ELIGIBLE STUDENT IS NOT ENTITLED;

(8) TO NOT RECEIVE ANY OTHER PUBLIC SUBSIDY FOR THE EDUCATION OF THE ELIGIBLE STUDENT, UNLESS ANY FUNDS RECEIVED UNDER THE PROGRAM ARE REDUCED BY THE AMOUNT OF THE SUBSIDY;

(9) TO NOT BILL AN INSURANCE COMPANY, MEDICAID, OR ANY OTHER AGENCY FOR THE SAME SERVICES FOR WHICH FUNDS RECEIVED UNDER THIS TITLE ARE USED; AND

(10) TO RETURN ANY UNUSED FUNDS TO THE STATE:

(I) WHEN THE STUDENT ACHIEVES A HIGH SCHOOL DIPLOMA OR ITS EQUIVALENT; OR

(II) ON THE STUDENT'S REMOVAL FROM A QUALIFYING SCHOOL IN THE STATE.

(D) (1) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, ON A QUARTERLY BASIS THE STATE SHALL DEPOSIT INTO AN ACCOUNT OF AN ELIGIBLE STUDENT AN AMOUNT EQUIVALENT TO:

(I) FOR STUDENTS FROM FAMILIES WHOSE INCOME IS LESS THAN OR EQUAL TO 500% OF THE FEDERAL POVERTY LEVEL FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR, 75% OF THE PER PUPIL AMOUNT OF STATE AND LOCAL FUNDS FOR EACH EDUCATION PROGRAM IN THE RESIDENT SCHOOL DISTRICT FOR WHICH THE ELIGIBLE STUDENT WOULD BE INCLUDED IN THE ENROLLMENT COUNT FOR THE CALCULATIONS UNDER TITLE 5, SUBTITLE 2 OF THIS ARTICLE; AND

(II) FOR STUDENTS FROM FAMILIES WHOSE INCOME IS GREATER THAN 500% OF THE FEDERAL POVERTY LEVEL FOR THE IMMEDIATELY PRECEDING CALENDAR YEAR, 50% OF THE PER PUPIL AMOUNT OF STATE AND LOCAL FUNDS FOR EACH EDUCATION PROGRAM IN THE RESIDENT SCHOOL DISTRICT FOR WHICH THE ELIGIBLE STUDENT WOULD BE INCLUDED IN THE ENROLLMENT COUNT FOR THE CALCULATIONS UNDER TITLE 5, SUBTITLE 2 OF THIS ARTICLE.

1 **(2) (I) THE ELIGIBLE STUDENT SHALL BE COUNTED IN THE**
2 **ENROLLMENT COUNT USED FOR PURPOSES OF CALCULATING THE STATE AND**
3 **LOCAL FUNDING FOR THE EDUCATION PROGRAMS UNDER TITLE 5, SUBTITLE 2 OF**
4 **THIS ARTICLE.**

5 **(II) THE COUNTY SHALL REIMBURSE THE STATE FOR THE**
6 **LOCAL FUNDING REQUIRED UNDER TITLE 5, SUBTITLE 2 OF THIS ARTICLE THAT IS**
7 **PROVIDED UNDER PARAGRAPH (1) OF THIS SUBSECTION.**

8 **(3) THE AMOUNT DEPOSITED UNDER PARAGRAPH (1) OF THIS**
9 **SUBSECTION SHALL BE DEDUCTED FROM THE AMOUNT OF STATE AND LOCAL FUNDS**
10 **PROVIDED TO THE RESIDENT SCHOOL DISTRICT UNDER TITLE 5, SUBTITLE 2 OF**
11 **THIS ARTICLE.**

12 **(4) A PARENT OF AN ELIGIBLE STUDENT MAY DEPOSIT ADDITIONAL**
13 **FUNDS TO AN ACCOUNT ON A PRE-TAX BASIS AS PROVIDED UNDER § 10-208(CC) OF**
14 **THE TAX – GENERAL ARTICLE.**

15 **(5) THE FUNDS IN AN ACCOUNT MAY BE USED ONLY FOR EDUCATION**
16 **EXPENSES UNDER SUBSECTION (E) OF THIS SECTION AND AS APPROVED BY THE**
17 **DEPARTMENT.**

18 **(E) PARENTS OF AN ELIGIBLE STUDENT MAY USE THE FUNDS IN THE**
19 **ACCOUNT ONLY FOR THE FOLLOWING EXPENSES:**

20 **(1) TUITION AND FEES AT A QUALIFYING SCHOOL;**

21 **(2) TEXTBOOKS OR UNIFORMS REQUIRED BY A QUALIFYING SCHOOL;**

22 **(3) PAYMENT FOR PRIVATE TUTORING;**

23 **(4) PAYMENT FOR PURCHASE OF CURRICULAR MATERIALS, ANY**
24 **SUPPLEMENTAL MATERIALS REQUIRED FOR THE CURRICULUM, AND**
25 **INSTRUCTIONAL MATERIALS;**

26 **(5) TUITION OR FEES FOR A NONPUBLIC ONLINE LEARNING**
27 **PROGRAM;**

28 **(6) FEES FOR NATIONAL NORM-REFERENCED EXAMINATIONS,**
29 **ADVANCED PLACEMENT EXAMINATIONS OR SIMILAR COURSES, ANY EXAMINATIONS**
30 **RELATED TO POSTSECONDARY ADMISSION, AND TECHNICAL EDUCATION COURSES;**

31 **(7) EDUCATION SERVICES FROM A LICENSED OR ACCREDITED**

1 PROVIDER FOR ELIGIBLE STUDENTS WITH DISABILITIES OR WITH SPECIAL NEEDS;

2 (8) CONTRACTED EDUCATION SERVICES PROVIDED AT A PUBLIC
3 SCHOOL OR WITHIN A LOCAL SCHOOL SYSTEM;

4 (9) IF APPLICABLE:

5 (I) INTERNET SERVICE PROVIDER FEES; OR

6 (II) ONLINE LEARNING FEES; AND

7 (10) ANY OTHER EDUCATION EXPENSES APPROVED BY THE
8 DEPARTMENT.

9 (F) A QUALIFYING SCHOOL, A PRIVATE TUTORING PROVIDER, OR ANY
10 OTHER EDUCATION PROVIDER MAY NOT REFUND, REBATE, OR SHARE THE GRANT
11 PROVIDED UNDER THIS TITLE WITH A PARENT OR AN ELIGIBLE STUDENT.

12 (G) THE DEPARTMENT SHALL PROVIDE WRITTEN NOTICE TO PARENTS ON:

13 (1) THE ELIGIBLE USES OF ACCOUNT FUNDS;

14 (2) THE RESPONSIBILITIES OF THE PARENT; AND

15 (3) THE DUTIES OF THE DEPARTMENT.

16 9.12-103.

17 (A) (1) THE DEPARTMENT SHALL QUALIFY PRIVATE FINANCIAL
18 MANAGEMENT FIRMS OR SIMILAR ENTITIES TO MANAGE ACCOUNTS.

19 (2) THE DEPARTMENT SHALL ESTABLISH REASONABLE FEES BASED
20 ON MARKET RATES.

21 (B) (1) (I) THE DEPARTMENT MAY CONDUCT OR CONTRACT FOR THE
22 AUDITING OF ACCOUNTS.

23 (II) AT A MINIMUM, A RANDOM SAMPLING OF ACCOUNTS SHALL
24 BE AUDITED ANNUALLY.

25 (2) THE DEPARTMENT MAY DETERMINE A PARENT INELIGIBLE FOR
26 THE PROGRAM IF SUBSTANTIAL MISUSE OF ACCOUNT FUNDS OCCURS.

(3) THE DEPARTMENT MAY REFER ANY SUBSTANTIAL MISUSE OF ACCOUNT FUNDS TO THE ATTORNEY GENERAL FOR FURTHER INVESTIGATION.

9.12-104.

(A) A QUALIFYING SCHOOL SHALL:

(1) COMPLY WITH APPLICABLE HEALTH AND SAFETY LAWS OR CODES;

(2) HOLD A VALID OCCUPANCY PERMIT IF REQUIRED;

(3) CERTIFY COMPLIANCE WITH NONDISCRIMINATION POLICIES UNDER TITLE 42 OF THE UNITED STATES CODE;

(4) CONDUCT CRIMINAL BACKGROUND CHECKS ON EMPLOYEES;

(5) REFUSE TO EMPLOY INDIVIDUALS WHO:

(I) ARE INELIGIBLE FOR EMPLOYMENT UNDER STATE LAW; OR

(II) POSE A THREAT TO THE SAFETY OF STUDENTS;

(6) OFFER ALL APPROPRIATE STANDARDIZED ASSESSMENTS;

(7) HAVE NO RECORD OF FRAUD OR ABUSE;

(8) ON REQUEST, PROVIDE PARENTS OF PROSPECTIVE STUDENTS DETAILS ABOUT THE SCHOOL'S PROGRAMS, QUALIFICATIONS, EXPERIENCE, AND CAPACITY TO SERVE STUDENTS; AND

(9) BE EITHER:

(I) AN APPROVED NONPUBLIC SCHOOL; OR

(II) A NONPUBLIC SCHOOL WITH PROVISIONAL APPROVAL.

(B) TO ENSURE APPROPRIATE EXPENDITURE OF FUNDS, A QUALIFYING SCHOOL SHALL PROVIDE PARENTS WITH A RECEIPT FOR ALL QUALIFYING EXPENDITURES.

9.12-105.

1 **THE RESIDENT SCHOOL DISTRICT SHALL PROVIDE A QUALIFIED SCHOOL OR**
2 **PROVIDER THAT HAS ADMITTED AN ELIGIBLE STUDENT WITH A COMPLETE COPY OF**
3 **THE STUDENT’S SCHOOL RECORD IN COMPLIANCE WITH THE FEDERAL FAMILY**
4 **EDUCATIONAL RIGHTS AND PRIVACY ACT.**

5 **9.12–106.**

6 **THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT**
7 **THIS TITLE.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
9 as follows:

10 **Article – Tax – General**

11 10–208.

12 (a) In addition to the modification under § 10–207 of this subtitle, the amounts
13 under this section are subtracted from the federal adjusted gross income of a resident to
14 determine Maryland adjusted gross income.

15 **(CC) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE**
16 **MEANINGS INDICATED.**

17 **(II) “ACCOUNT” HAS THE MEANING STATED IN § 9.12–101 OF**
18 **THE EDUCATION ARTICLE.**

19 **(III) “PARENT” HAS THE MEANING STATED IN § 9.12–101 OF THE**
20 **EDUCATION ARTICLE.**

21 **(IV) “PROGRAM” HAS THE MEANING STATED IN § 9.12–101 OF**
22 **THE EDUCATION ARTICLE.**

23 **(2) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION**
24 **INCLUDES THE AMOUNT DEPOSITED INTO AN ACCOUNT ESTABLISHED UNDER THE**
25 **PROGRAM BY A PARENT DURING THE TAXABLE YEAR.**

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July
27 1, 2023, and Section 2 of this Act shall be applicable to all taxable years beginning after
28 December 31, 2022.