

# HOUSE BILL 716

J1, Q4

11r1791  
CF 11r2748

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By: **Delegates Walker, Anderson, Barnes, Braveboy, Davis, Feldman, Frick, Frush, Holmes, Hubbard, Nathan–Pulliam, Pena–Melnik, B. Robinson, Ross, Stukes, F. Turner, and Vaughn**

Introduced and read first time: February 10, 2011

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health – Maryland Combating Childhood Obesity Grant Program**

3 FOR the purpose of establishing the Maryland Combating Childhood Obesity Grant  
4 Program; specifying the purpose of the Program; requiring an organization or a  
5 public school meet certain eligibility requirements for participation in the  
6 Program; specifying that a grant from the program may be used for certain  
7 purposes; prohibiting a program grant from being used for certain purposes;  
8 requiring an organization or a public school that receives a grant from the  
9 program to submit certain reports to the Secretary of Health and Mental  
10 Hygiene at certain times; requiring the Secretary to adopt certain regulations;  
11 establishing the Maryland Combating Childhood Obesity Fund; specifying the  
12 purpose of the Fund; requiring the Secretary to administer the Fund; specifying  
13 that the Fund is a special, nonlapsing fund that is not subject to a certain  
14 provision of law; requiring the State Treasurer to hold the Fund separately;  
15 requiring the Comptroller to account for the Fund; specifying that the Fund  
16 consists of certain revenue, certain investment earnings, and certain other  
17 money; specifying that the Fund may be used only for certain purposes;  
18 requiring the State Treasurer to invest money in the Fund in a certain manner;  
19 requiring that investment earnings of the Fund be credited to the Fund;  
20 specifying that expenditures from the Fund may be made only in accordance  
21 with the State budget; specifying that a certain exemption from the sales and  
22 use tax does not apply to snack food; repealing a certain exemption from the  
23 sales and use tax; requiring the Comptroller to distribute the sales and use tax  
24 revenue collected from the sale of snack food in a certain manner; requiring a  
25 sales and use tax return to include certain information; defining certain terms;  
26 and generally relating to the Maryland Combating Childhood Obesity Grant  
27 Program.

28 BY adding to

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Health – General  
2 Section 13–3001 through 13–3003 to be under the new subtitle “Subtitle 30.  
3 Maryland Combating Childhood Obesity Grant Program”  
4 Annotated Code of Maryland  
5 (2009 Replacement Volume and 2010 Supplement)

6 BY repealing and reenacting, with amendments,  
7 Article – Tax – General  
8 Section 2–1302.2, 11–206, and 11–502  
9 Annotated Code of Maryland  
10 (2010 Replacement Volume)

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

13 **Article – Health – General**

14 **SUBTITLE 30. MARYLAND COMBATING CHILDHOOD OBESITY GRANT**  
15 **PROGRAM.**

16 **13–3001.**

17 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
18 INDICATED.

19 (B) “FUND” MEANS THE MARYLAND COMBATING CHILDHOOD OBESITY  
20 FUND.

21 (C) “ORGANIZATION” MEANS A NONPROFIT ORGANIZATION THAT IS  
22 EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE INTERNAL REVENUE  
23 CODE.

24 (D) “PROGRAM” MEANS THE MARYLAND COMBATING CHILDHOOD  
25 OBESITY GRANT PROGRAM.

26 **13–3002.**

27 (A) THERE IS A MARYLAND COMBATING CHILDHOOD OBESITY GRANT  
28 PROGRAM.

29 (B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE GRANTS TO  
30 ORGANIZATIONS AND PUBLIC SCHOOLS THAT SERVE CHILDREN ENROLLED IN  
31 KINDERGARTEN THROUGH GRADE 8, IN A PUBLIC SCHOOL, THAT PROVIDE  
32 PHYSICAL ACTIVITIES DURING SCHOOL, AFTER SCHOOL, AND SUMMER  
33 VACATION.

1           **(C) TO BE ELIGIBLE FOR A GRANT FROM THE PROGRAM, AN**  
2 **ORGANIZATION OR A PUBLIC SCHOOL SHALL:**

3                   **(1) APPLY THE BEST PRACTICES FOR THE OPERATION OF**  
4 **OUT-OF-SCHOOL PROGRAMS FROM THE MARYLAND OUT-OF-SCHOOL TIME**  
5 **PROGRAMS' QUALITY STANDARDS FRAMEWORK AS ESTABLISHED BY THE**  
6 **MARYLAND OUT-OF-SCHOOL TIME NETWORK;**

7                   **(2) SERVE CHILDREN ENROLLED IN KINDERGARTEN THROUGH**  
8 **GRADE 8 IN A PUBLIC SCHOOL; AND**

9                   **(3) OFFER PUBLIC SCHOOL CHILDREN REGULAR, HIGH QUALITY**  
10 **OPPORTUNITIES TO BE PHYSICALLY ACTIVE, INCLUDING INTRAMURAL SPORTS**  
11 **AND ORGANIZED PLAY.**

12           **(D) (1) A GRANT FROM THE PROGRAM MAY BE USED TO:**

13                   **(I) OFFER NUTRITION EDUCATION, INCLUDING EDUCATION**  
14 **IN THE CULINARY ARTS; AND**

15                   **(II) PROVIDE HEALTHY SNACKS AND MEALS.**

16                   **(2) A GRANT FROM THE PROGRAM MAY NOT BE USED TO**  
17 **PROVIDE ACTIVITIES THAT ARE OFFERED:**

18                   **(I) BY A PUBLIC SCHOOL AS PART OF, OR IN LIEU OF, THE**  
19 **PUBLIC SCHOOL'S REQUIRED PHYSICAL EDUCATION PROGRAM; OR**

20                   **(II) AT A PUBLIC SCHOOL THAT IS OPEN TO CHILDREN WHO**  
21 **ARE ENROLLED IN A PRIVATE SCHOOL OR WHO ARE HOMESCHOOLED.**

22           **(E) (1) AN ORGANIZATION OR A PUBLIC SCHOOL THAT RECEIVES A**  
23 **GRANT FROM THE PROGRAM SHALL SUBMIT INTERIM AND FINAL REPORTS TO**  
24 **THE SECRETARY THAT INCLUDE:**

25                   **(I) THE NUMBER OF PUBLIC SCHOOL CHILDREN ENROLLED**  
26 **IN THE GRANT-FUNDED ACTIVITIES;**

27                   **(II) THE NUMBER OF PUBLIC SCHOOL CHILDREN WHO**  
28 **ATTENDED ANY GRANT-FUNDED ACTIVITIES;**

1 (III) INFORMATION REGARDING WHETHER THE  
2 PARTICIPATION IN THE GRANT-FUNDED ACTIVITIES HAS AFFECTED THE  
3 SCHOOL ATTENDANCE OF THE PARTICIPATING CHILDREN;

4 (IV) DATA FROM SURVEYS COMPLETED BY THE  
5 PARTICIPATING CHILDREN AT THE BEGINNING AND END OF THE  
6 GRANT-FUNDED ACTIVITIES; AND

7 (V) DOCUMENTATION OF THE SPECIFIC ACTIVITIES THAT  
8 WERE FUNDED THROUGH THE GRANT AND THE SKILLS GAINED BY THE PUBLIC  
9 SCHOOL CHILDREN THROUGH PARTICIPATION IN THE ACTIVITIES.

10 (2) THE INTERIM REPORT REQUIRED UNDER PARAGRAPH (1) OF  
11 THIS SUBSECTION SHALL BE SUBMITTED NO LATER THAN HALFWAY THROUGH  
12 THE GRANT PERIOD.

13 (3) THE FINAL REPORT REQUIRED UNDER PARAGRAPH (1) OF  
14 THIS SUBSECTION SHALL BE SUBMITTED WITHIN 30 DAYS AFTER THE GRANT  
15 PERIOD ENDS.

16 (F) THE SECRETARY SHALL ADOPT REGULATIONS TO CARRY OUT THE  
17 PROGRAM.

18 13-3003.

19 (A) THERE IS A MARYLAND COMBATING CHILDHOOD OBESITY FUND.

20 (B) THE PURPOSE OF THE FUND IS TO FUND THE MARYLAND  
21 COMBATING CHILDHOOD OBESITY GRANT PROGRAM.

22 (C) THE SECRETARY SHALL ADMINISTER THE FUND.

23 (D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT  
24 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

25 (2) THE STATE TREASURER SHALL HOLD THE FUND  
26 SEPARATELY, AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.

27 (E) THE FUND CONSISTS OF:

28 (1) REVENUE DISTRIBUTED TO THE FUND UNDER § 2-1302.2(A)  
29 OF THE TAX - GENERAL ARTICLE;

30 (2) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;

1           **(3) INVESTMENT EARNINGS OF THE FUND; AND**

2           **(4) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED**  
3 **FOR THE BENEFIT OF THE FUND.**

4           **(F) (1) THE FUND MAY BE USED ONLY AS PROVIDED IN THIS**  
5 **SUBSECTION.**

6           **(2) (I) THE DEPARTMENT SHALL USE 2.5% OF THE FUND EACH**  
7 **YEAR FOR THE COSTS OF ADMINISTERING THE PROGRAM.**

8                   **(II) THE DEPARTMENT MAY USE ADMINISTRATIVE FUNDS**  
9 **TO PROVIDE:**

10                           **1. TECHNICAL ASSISTANCE; AND**

11                                   **2. PROFESSIONAL DEVELOPMENT AND TRAINING**  
12 **OPPORTUNITIES TO THE EMPLOYEES OF ORGANIZATIONS AND PUBLIC SCHOOLS**  
13 **THAT RECEIVE GRANTS FROM THE PROGRAM.**

14           **(3) THE BALANCE OF THE FUND SHALL BE USED TO AWARD**  
15 **GRANTS FROM THE PROGRAM.**

16           **(G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE**  
17 **FUND IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

18           **(2) ANY INVESTMENT EARNINGS OF THE FUND SHALL BE**  
19 **CREDITED TO THE FUND.**

20           **(H) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN**  
21 **ACCORDANCE WITH THE STATE BUDGET.**

22                                   **Article – Tax – General**

23           2–1302.2.

24           **(A) AFTER MAKING THE DISTRIBUTIONS REQUIRED UNDER §§ 2–1301**  
25 **THROUGH 2–1302.1 OF THIS SUBTITLE, THE COMPTROLLER QUARTERLY SHALL**  
26 **DISTRIBUTE 40% OF THE SALES AND USE TAX REVENUE ATTRIBUTABLE TO THE**  
27 **SALE OF SNACK FOOD TO THE MARYLAND COMBATING CHILDHOOD OBESITY**  
28 **FUND ESTABLISHED UNDER § 13–3003 OF THE HEALTH – GENERAL ARTICLE.**





1 (b) The sales and use tax does not apply to a sale of food stamp eligible food,  
2 as defined in 7 U.S.C. § 2012, bought with a food coupon issued in accordance with 7  
3 U.S.C. § 2016.

4 (c) (1) Except as provided in paragraph (2) of this subsection, the sales  
5 and use tax does not apply to a sale of food for consumption off the premises by a food  
6 vendor who operates a substantial grocery or market business at the same location  
7 where the food is sold.

8 (2) The exemption under paragraph (1) of this subsection does not  
9 apply to:

10 (i) food that the vendor serves for consumption on the premises  
11 of the buyer or of a third party; [or]

12 (ii) food for immediate consumption; **OR**

13 **(III) SNACK FOOD.**

14 (d) The sales and use tax does not apply to:

15 (1) a sale of food:

16 (i) to patients in a hospital when the food charge is included in  
17 the regular room rate;

18 (ii) by a church or religious organization;

19 (iii) by a school other than an institution of postsecondary  
20 education, including sales at a school by a food concessionaire that is under contract  
21 with the school or with its designated contract agent, but not including sales at events  
22 that are not sponsored by the school or are not educationally related;

23 (iv) to students at an institution of postsecondary education if  
24 the food charge is for a meal plan or is included in the regular charge for room and  
25 board; or

26 (v) by a nonprofit food vendor if there are no facilities for food  
27 consumption on the premises, unless the food is sold within an enclosure for which a  
28 charge is made for admission;

29 (2) if the proceeds of the sale are used to support a bona fide  
30 nationally organized and recognized organization of veterans of the armed forces of the  
31 United States or auxiliary of the organization or 1 of its units, a sale of food or meals  
32 for consumption only on the premises, served by the organization or auxiliary; or



1           (3) if the proceeds of the sale are used to support a volunteer fire  
2 company or department or its auxiliary or a volunteer ambulance company or rescue  
3 squad or its auxiliary, a sale of food served by the company, department, squad, or  
4 auxiliary.

5           (e) The sales and use tax does not apply to a sale of food or any beverage in a  
6 vehicle that is being operated in the State while in the course of interstate commerce.

7           (f) The sales and use tax does not apply to a sale for consumption off the  
8 premises of:

9           (1) crabs; or

10           (2) seafood that is not prepared for immediate consumption.

11           **[(g) (1) In this subsection, “snack food” means:**

12                   (i) potato chips and sticks;

13                   (ii) corn chips;

14                   (iii) pretzels;

15                   (iv) cheese puffs and curls;

16                   (v) pork rinds;

17                   (vi) extruded pretzels and chips;

18                   (vii) popped popcorn;

19                   (viii) nuts and edible seeds; or

20                   (ix) snack mixtures that contain any one or more of the foods  
21 listed in items (i) through (viii) of this paragraph.

22           (2) The sales and use tax does not apply to the sale of snack food  
23 through a vending machine.]

24           **[(h) (G) The sales and use tax does not apply to the sale through a vending**  
25 **machine of milk, fresh fruit, fresh vegetables, or yogurt.**

26 11-502.

27           (a) Each vendor shall complete, under oath, and file with the Comptroller a  
28 sales and use tax return:

1           (1)     on or before the 20th day of the month that follows the month in  
2 which the vendor makes any retail sale or sale for use; and

3           (2)     for other periods and on other dates that the Comptroller specifies  
4 by regulation, including periods in which the vendor does not make any retail sale or  
5 sale for use.

6           (b)     A return shall state, for the period that the return covers:

7           (1)     for a vendor making a retail sale in the State:

8                   (i)     the gross proceeds of the business of the vendor;

9                   (ii)    the taxable price of sales on which the sales and use tax is  
10 computed; [and]

11                           **(III) THE AMOUNT OF SALES AND USE TAX THAT THE VENDOR**  
12 **COLLECTED FROM THE SALE OF SNACK FOOD; AND**

13                   [~~(iii)~~] **(IV)**   the sales and use tax due; and

14           (2)     for a vendor making a sale for use:

15                   (i)     the total value of the tangible personal property or taxable  
16 service the use of which became subject to the sales and use tax; and

17                   (ii)    the sales and use tax due.

18           (c)     If the Comptroller approves, a vendor engaging in more than 1 business  
19 in which the vendor makes retail sales or sales for use may file a consolidated return  
20 covering the activities of the businesses.

21           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 July 1, 2011.