

# SENATE BILL 418

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By: **Senator Serafini**

Introduced and read first time: January 27, 2020

Assigned to: Education, Health, and Environmental Affairs and Budget and Taxation

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## A BILL ENTITLED

1 AN ACT concerning

2 **Education Savings Account Program – Established**

3 FOR the purpose of establishing an Education Savings Account program in the State;  
4 stating the purpose of the program; establishing the requirements for participation  
5 in the program; requiring a certain deposit into the account of certain students;  
6 establishing a process for calculating and depositing a certain amount; limiting the  
7 use of certain funds to certain purposes; authorizing the State Department of  
8 Education to retain a certain portion of certain funds, determine a parent ineligible  
9 under certain circumstances, and refer certain actions to the Attorney General;  
10 prohibiting certain entities from making certain uses of a certain grant; authorizing  
11 certain parents to provide certain costs under certain circumstances; requiring the  
12 Department to provide certain notices to certain individuals under certain  
13 circumstances; requiring the Department to qualify certain entities, establish  
14 certain fees, and conduct certain audits; requiring certain schools, parents, and the  
15 Department or a certain organization to take certain actions and provide certain  
16 information in a certain format for certain purposes; establishing the autonomy of  
17 certain schools; requiring the Department to have a certain form available in a  
18 certain manner; authorizing the Department to disqualify certain entities for certain  
19 purposes; requiring a certain school district to provide certain entities with student  
20 school records and transportation in a certain manner; requiring the Department to  
21 adopt certain regulations; defining certain terms; and generally relating to the  
22 Education Savings Account program.

23 BY adding to

24 Article – Education

25 Section 9.11–101 through 9.11–107 to be under the new title “Title 9.11. Education  
26 Savings Accounts”

27 Annotated Code of Maryland

28 (2018 Replacement Volume and 2019 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 That the Laws of Maryland read as follows:

2 **Article – Education**

3 **TITLE 9.11. EDUCATION SAVINGS ACCOUNTS.**

4 **9.11–101.**

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

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

10 (C) “ELIGIBLE POSTSECONDARY INSTITUTION” MEANS A COMMUNITY  
11 COLLEGE, A TECHNICAL COLLEGE, OR AN ACCREDITED PUBLIC OR PRIVATE  
12 INSTITUTION OF POSTSECONDARY EDUCATION.

13 (D) “ELIGIBLE STUDENT” MEANS A STUDENT WHO IS A LEGAL RESIDENT OF  
14 THE STATE AND IS ELIGIBLE TO ENROLL IN A PUBLIC SCHOOL IN THE STATE.

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

18 (F) “PRIVATE TUTORING” MEANS TUTORING SERVICES PROVIDED BY A  
19 TUTOR WHO:

20 (1) IS A TEACHER LICENSED IN ANY STATE;

21 (2) HAS EXPERIENCE TEACHING AT AN ELIGIBLE POSTSECONDARY  
22 INSTITUTION;

23 (3) IS A SUBJECT MATTER EXPERT; OR

24 (4) IS OTHERWISE APPROVED BY THE DEPARTMENT.

25 (G) “PROGRAM” MEANS THE EDUCATION SAVINGS ACCOUNT PROGRAM  
26 ESTABLISHED UNDER THIS TITLE.

27 (H) “QUALIFYING SCHOOL” MEANS ANY PRIVATE SCHOOL THAT PROVIDES  
28 INSTRUCTION TO PRIMARY OR SECONDARY STUDENTS AND HAS NOTIFIED THE  
29 DEPARTMENT OF ITS INTENTION TO PARTICIPATE IN THE PROGRAM AND COMPLY

1 WITH THE PROGRAM'S REQUIREMENTS.

2 (I) "RESIDENT SCHOOL DISTRICT" MEANS THE COUNTY IN WHICH THE  
3 STUDENT RESIDES.

4 9.11-102.

5 (A) THERE IS AN EDUCATION SAVINGS ACCOUNT PROGRAM IN THE STATE.

6 (B) THE PROGRAM PROVIDES STATE GRANTS TO THE ACCOUNT OF THE  
7 PARENT OF AN ELIGIBLE STUDENT TO PROVIDE FOR THE EDUCATION OF THE  
8 ELIGIBLE STUDENT.

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

12 (1) TO PROVIDE AN EDUCATION FOR THE ELIGIBLE STUDENT IN, AT A  
13 MINIMUM, READING, GRAMMAR, SOCIAL STUDIES, AND SCIENCE; AND

14 (2) NOT TO ENROLL THEIR ELIGIBLE STUDENT IN A PUBLIC SCHOOL  
15 OR PUBLIC CHARTER SCHOOL EXCEPT FOR CONTRACTED SERVICES UNDER  
16 SUBSECTION (E) OF THIS SECTION.

17 (D) (1) SUBJECT TO PARAGRAPH (5) OF THIS SUBSECTION, ON A  
18 QUARTERLY BASIS THE STATE SHALL DEPOSIT INTO AN ACCOUNT OF AN ELIGIBLE  
19 STUDENT AN AMOUNT EQUIVALENT TO THE PER PUPIL AMOUNT OF STATE AND  
20 LOCAL FUNDS FOR EACH EDUCATION PROGRAM FOR WHICH THE ELIGIBLE STUDENT  
21 WOULD BE INCLUDED IN THE ENROLLMENT COUNT FOR THE CALCULATIONS UNDER  
22 TITLE 5, SUBTITLE 2 OF THIS ARTICLE.

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

27 (II) THE COUNTY SHALL REIMBURSE THE STATE FOR THE  
28 LOCAL FUNDING REQUIRED UNDER TITLE 5, SUBTITLE 2 OF THIS ARTICLE.

29 (3) THE AMOUNT DEPOSITED UNDER PARAGRAPH (1) OF THIS  
30 SUBSECTION SHALL BE DEDUCTED FROM THE AMOUNT OF STATE AND LOCAL FUNDS  
31 PROVIDED TO THE RESIDENT SCHOOL DISTRICT UNDER TITLE 5, SUBTITLE 2 OF  
32 THIS ARTICLE.

1           **(4) THE FUNDS IN AN ACCOUNT MAY BE USED ONLY FOR EDUCATION**  
2 **EXPENSES APPROVED BY THE DEPARTMENT.**

3           **(5) THE DEPARTMENT MAY RETAIN A REASONABLE AMOUNT OF THE**  
4 **GRANTS FOR ADMINISTRATIVE COSTS.**

5           **(E) PARENTS OF THE ELIGIBLE STUDENT MAY USE THE FUNDS IN THE**  
6 **ACCOUNT ONLY FOR THE FOLLOWING EXPENSES:**

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

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

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

10           **(4) PAYMENT FOR PURCHASE OF CURRICULAR MATERIALS, ANY**  
11 **SUPPLEMENTAL MATERIALS REQUIRED FOR THE CURRICULUM, AND**  
12 **INSTRUCTIONAL MATERIALS;**

13           **(5) TUITION OR FEES FOR A NONPUBLIC ONLINE LEARNING**  
14 **PROGRAM;**

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

18           **(7) CONTRIBUTIONS OF UP TO \$2,000 ANNUALLY TO THE ELIGIBLE**  
19 **STUDENT'S QUALIFIED TUITION PROGRAM ESTABLISHED UNDER § 529 OR § 530 OF**  
20 **THE INTERNAL REVENUE CODE;**

21           **(8) EDUCATION SERVICES FROM A LICENSED OR ACCREDITED**  
22 **PROVIDER FOR ELIGIBLE STUDENTS WITH DISABILITIES OR WITH SPECIAL NEEDS;**

23           **(9) TUITION AND FEES AT AN ELIGIBLE POSTSECONDARY**  
24 **INSTITUTION;**

25           **(10) TUITION, FEES, AND INSTRUCTIONAL MATERIALS AT A CAREER**  
26 **AND TECHNICAL EDUCATION PROVIDER;**

27           **(11) CONTRACTED EDUCATION SERVICES PROVIDED AT A PUBLIC**  
28 **SCHOOL OR WITHIN A LOCAL SCHOOL SYSTEM;**

1           **(12) TEXTBOOKS REQUIRED FOR POSTSECONDARY COURSES;**

2           **(13) FEES FOR MANAGING AN ACCOUNT;**

3           **(14) TRANSPORTATION COSTS UP TO \$1,000 ANNUALLY; AND**

4           **(15) ANY OTHER EDUCATION EXPENSES APPROVED BY THE**  
5 **DEPARTMENT.**

6           **(F) A QUALIFYING SCHOOL, PRIVATE TUTORING PROVIDER, ELIGIBLE**  
7 **POSTSECONDARY INSTITUTION, OR OTHER EDUCATION PROVIDER MAY NOT**  
8 **REFUND, REBATE, OR SHARE THE GRANT PROVIDED UNDER THIS TITLE WITH A**  
9 **PARENT OR ELIGIBLE STUDENT.**

10           **(G) IF THE COSTS OF EDUCATION PROGRAMS AND SERVICES EXCEED THE**  
11 **AMOUNT IN THE ACCOUNT, THE PARENTS MAY COVER THOSE COSTS.**

12           **(H) 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 **9.11-103.**

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) THE DEPARTMENT MAY CONDUCT OR CONTRACT FOR THE**  
22 **AUDITING OF ACCOUNTS.**

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

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

27                   **(4) THE DEPARTMENT MAY REFER ANY SUBSTANTIAL MISUSE OF**

1 ACCOUNT FUNDS TO THE ATTORNEY GENERAL FOR FURTHER INVESTIGATION.

2 **9.11–104.**

3 (A) TO ENSURE FAIRNESS AND SAFETY, A QUALIFYING SCHOOL SHALL:

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

6 (2) HOLD A VALID OCCUPANCY PERMIT IF REQUIRED;

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

9 (4) CONDUCT CRIMINAL BACKGROUND CHECKS ON EMPLOYEES; AND

10 (5) REFUSE TO EMPLOY INDIVIDUALS WHO:

11 (i) ARE INELIGIBLE FOR EMPLOYMENT UNDER STATE LAW; OR

12 (ii) POSE A THREAT TO THE SAFETY OF STUDENTS.

13 (B) TO ENSURE APPROPRIATE EXPENDITURE OF FUNDS, A QUALIFYING  
14 SCHOOL SHALL:

15 (1) PROVIDE PARENTS WITH A RECEIPT FOR ALL QUALIFYING  
16 EXPENDITURES; AND

17 (2) IF THE SCHOOL RECEIVES AT LEAST \$50,000 DURING THE SCHOOL  
18 YEAR, DEMONSTRATE THE SCHOOL'S FINANCIAL VIABILITY BY SHOWING, BEFORE  
19 THE BEGINNING OF THE SCHOOL YEAR, THE ABILITY TO REPAY ANY FUNDS  
20 PROVIDED FROM AN ACCOUNT BY:

21 (i) FILING A SURETY BOND WITH THE DEPARTMENT THAT IS  
22 PAYABLE TO THE STATE IN AN AMOUNT EQUAL TO THE TOTAL AMOUNT OF FUNDS  
23 THE SCHOOL EXPECTS TO RECEIVE FROM AN ACCOUNT FOR THE SCHOOL YEAR; OR

24 (ii) FILING FINANCIAL INFORMATION WITH THE DEPARTMENT  
25 THAT DEMONSTRATES THE SCHOOL HAS THE ABILITY TO PAY AN AMOUNT EQUAL TO  
26 THE TOTAL AMOUNT OF FUNDS THE SCHOOL EXPECTS TO RECEIVE FROM AN  
27 ACCOUNT FOR THE SCHOOL YEAR.

28 (C) (1) TO MEASURE THE ACHIEVEMENTS OF THE PROGRAM, PARENTS

1 AND THE DEPARTMENT SHALL TAKE THE ACTIONS DESCRIBED IN THIS SUBSECTION.

2 (2) PARENTS SHALL ENSURE THAT:

3 (I) ALL ELIGIBLE STUDENTS IN GRADES THAT REQUIRE AN  
4 ASSESSMENT UNDER THE STATE'S ASSESSMENT STANDARDS TAKE EITHER THE  
5 STATE ASSESSMENT OR A NATIONALLY NORM-REFERENCED TEST THAT MEASURES  
6 GAINS OR VALUE-ADDED LEARNING FOR MATH AND LANGUAGE ARTS;

7 (II) RESULTS OF THE ASSESSMENTS UNDER SUBPARAGRAPH (I)  
8 OF THIS PARAGRAPH ARE PROVIDED TO THE DEPARTMENT OR AN ORGANIZATION  
9 CHOSEN BY THE DEPARTMENT ON AN ANNUAL BASIS;

10 (III) THE STUDENT INFORMATION IS REPORTED TO ALLOW THE  
11 DEPARTMENT TO AGGREGATE DATA BY GRADE LEVEL, GENDER, FAMILY INCOME,  
12 AND RACE OR ETHNICITY; AND

13 (IV) THE DEPARTMENT OR AN ORGANIZATION CHOSEN BY THE  
14 DEPARTMENT IS NOTIFIED OF THE ELIGIBLE STUDENT'S HIGH SCHOOL  
15 GRADUATION.

16 (3) THE DEPARTMENT OR AN ORGANIZATION CHOSEN BY THE  
17 DEPARTMENT SHALL:

18 (I) ENSURE COMPLIANCE WITH STUDENT PRIVACY LAWS;

19 (II) COLLECT ALL ASSESSMENT RESULTS;

20 (III) PROVIDE ASSESSMENT RESULTS RELATING TO LEARNING  
21 GAINS AND GRADUATION RATES ON A PUBLICLY AVAILABLE WEBSITE BEGINNING  
22 WITH THE THIRD YEAR OF ASSESSMENTS; AND

23 (IV) ANNUALLY ADMINISTER A SATISFACTION SURVEY TO  
24 PARENTS OF ELIGIBLE STUDENTS WITH AN ACCOUNT TO COLLECT INFORMATION  
25 ON:

26 1. THE SATISFACTION WITH THE PROGRAM;

27 2. THE NUMBER OF YEARS THE ELIGIBLE STUDENT HAS  
28 PARTICIPATED IN THE PROGRAM; AND

29 3. OPINIONS ON OTHER TOPICS THAT THE  
30 DEPARTMENT OR AN ORGANIZATION CHOSEN BY THE DEPARTMENT DETERMINES

1 WOULD INDICATE EFFECTIVENESS OF THE PROGRAM.

2 (D) A PARENT MAY PLACE A DISABLED CHILD IN AN ELIGIBLE SCHOOL IN  
3 ACCORDANCE WITH THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION  
4 ACT.

5 (E) (1) A PARTICIPATING PRIVATE SCHOOL HAS AUTONOMY AND IS NOT  
6 AN AGENT OF THE STATE.

7 (2) THE DEPARTMENT OR ANY OTHER STATE AGENCY MAY NOT  
8 REGULATE THE EDUCATIONAL PROGRAM OF A QUALIFYING SCHOOL OR EDUCATION  
9 PROVIDER THAT ACCEPTS FUNDS FROM AN ACCOUNT.

10 (3) ESTABLISHING THE PROGRAM DOES NOT EXPAND THE  
11 REGULATORY AUTHORITY OF THE DEPARTMENT OR ANY COUNTY BOARD EXCEPT TO  
12 CARRY OUT THE PROVISIONS OF THIS TITLE.

13 (4) THE DEPARTMENT OR OTHER STATE AGENCY MAY NOT LIMIT THE  
14 ABILITY OF QUALIFYING SCHOOLS OR EDUCATION PROVIDERS TO PROVIDE FOR THE  
15 EDUCATIONAL NEEDS OF STUDENTS.

16 9.11-105.

17 (A) EACH YEAR, THE DEPARTMENT SHALL NOTIFY ELIGIBLE STUDENTS  
18 AND PARENTS OF THE SCHOOLS PARTICIPATING IN THE PROGRAM.

19 (B) (1) THE DEPARTMENT SHALL HAVE A FORM FOR PARENTS OF  
20 STUDENTS TO SUBMIT TO THE DEPARTMENT TO DETERMINE ELIGIBILITY.

21 (2) THE FORM SHALL BE READILY AVAILABLE ON A WEBSITE AND MAY  
22 BE SUBMITTED ONLINE.

23 (C) (1) THE DEPARTMENT MAY DISQUALIFY A SCHOOL OR PROVIDER  
24 FROM THE PROGRAM IF THE SCHOOL OR PROVIDER HAS:

25 (I) REGULARLY FAILED TO COMPLY WITH THE REQUIREMENTS  
26 OF THIS TITLE; OR

27 (II) FAILED TO PROVIDE AN ELIGIBLE STUDENT WITH THE  
28 EDUCATION SERVICES FUNDED BY AN ACCOUNT.

29 (2) ON THE DISQUALIFICATION OF A SCHOOL OR PROVIDER, THE  
30 DEPARTMENT SHALL PROVIDE NOTICE TO THE PARENT.



1 **9.11-106.**

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

6 (B) (1) THE RESIDENT SCHOOL DISTRICT SHALL PROVIDE  
7 TRANSPORTATION FOR AN ELIGIBLE STUDENT TO AND FROM THE QUALIFYING  
8 SCHOOL OR PROVIDER IN THE SAME MANNER IT IS REQUIRED TO PROVIDE  
9 TRANSPORTATION TO A STUDENT ATTENDING A PUBLIC SCHOOL IN THE DISTRICT.

10 (2) THE STATE AND COUNTY SHALL PROVIDE TRANSPORTATION  
11 FUNDING TO THE RESIDENT SCHOOL DISTRICT FOR EACH ELIGIBLE STUDENT BY  
12 INCLUDING THE STUDENT IN THE FULL-TIME EQUIVALENT ENROLLMENT USED IN §  
13 5-205 OF THIS ARTICLE.

14 **9.11-107.**

15 THE DEPARTMENT SHALL ADOPT REGULATIONS NECESSARY TO CARRY OUT  
16 THIS TITLE.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
18 1, 2020.