

HOUSE BILL 1179

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By: **Delegate Forbes**

Introduced and read first time: February 10, 2023

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **University System of Maryland – Affiliated Foundations**

3 FOR the purpose of providing that certain officials or employees of the University System
4 of Maryland, constituent institutions, centers, or institutes are not barred under
5 certain laws from holding certain employment positions with certain affiliated
6 foundations under certain circumstances; and generally relating to the University
7 System of Maryland and affiliated foundations.

8 BY repealing and reenacting, with amendments,

9 Article – Education

10 Section 15–104

11 Annotated Code of Maryland

12 (2022 Replacement Volume)

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

15 **Article – Education**

16 15–104.

17 (a) It is the public policy of the State that endowment funds of public institutions
18 of higher education and gifts, donations, bequests, private endowments, and private grants
19 received by public institutions of higher education or their governing boards, including any
20 income therefrom:

21 (1) Shall be used in accordance with the wishes of the donors; and

22 (2) May not be used as a substitute for State General Fund appropriations.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (b) (1) The public institutions of higher education are encouraged to promote
2 private fundraising by strengthening institutional development activities and by
3 maintaining relationships with affiliated foundations.

4 (2) Affiliated foundations that are independently established for this
5 purpose shall operate subject to policies adopted by the governing boards and be approved
6 for form and legal sufficiency by the Attorney General.

7 (3) The presidents of the University System of Maryland constituent
8 institutions may establish campus-based foundations. Each foundation need not be
9 approved by the Board of Regents of the University System of Maryland but shall operate
10 subject to policies adopted by the Board of Regents of the University System of Maryland
11 in consultation with the presidents of the University System of Maryland constituent
12 institutions.

13 (4) An affiliated foundation established and operated under this subsection
14 may not be considered an agency or instrumentality of the State or a unit of the Executive
15 Branch for any purpose.

16 (5) A financial obligation or liability of an affiliated foundation established
17 and operated under this subsection may not be considered a debt or an obligation of the
18 State or the University System of Maryland.

19 (6) Sections 5-501 through 5-504 of the General Provisions Article do not
20 bar an official or employee of a public institution of higher education from becoming a
21 director, official, or employee of an independent foundation organized to foster fundraising
22 and provide related services for the benefit of the institution.

23 **(7) SECTIONS 5-501 THROUGH 5-504 OF THE GENERAL PROVISIONS**
24 **ARTICLE DO NOT BAR AN OFFICIAL OR EMPLOYEE OF THE UNIVERSITY SYSTEM OF**
25 **MARYLAND, A CONSTITUENT INSTITUTION, A CENTER, OR AN INSTITUTE FROM**
26 **BECOMING A DIRECTOR, AN OFFICIAL, OR AN EMPLOYEE OF AN INDEPENDENT**
27 **FOUNDATION ORGANIZED TO ACCEPT RESEARCH GRANTS FOR THE BENEFIT OF THE**
28 **INSTITUTION IF:**

29 **(I) THE AFFILIATED FOUNDATION THAT ACCEPTS A RESEARCH**
30 **GRANT IS A TAX-EXEMPT ORGANIZATION SET FORTH IN § 501(C)(3) OF THE**
31 **INTERNAL REVENUE CODE; AND**

32 **(II) THE UNIVERSITY SYSTEM OF MARYLAND, A CONSTITUENT**
33 **INSTITUTION, A CENTER, OR AN INSTITUTE DETERMINED THAT IT CANNOT**
34 **DIRECTLY ACCEPT THE RESEARCH GRANT BECAUSE OF CONDITIONS REQUIRED BY**
35 **THE GRANTOR, INCLUDING PROVIDING AN INDEMNITY OR PURCHASING INDEMNITY**
36 **INSURANCE AS A CONDITION OF RECEIVING THE RESEARCH GRANT.**

1 ~~[(7)]~~ **(8)** No funds shall be accepted from an affiliated foundation by a
2 public institution of postsecondary education unless the fiscal affairs of the affiliated
3 foundation are audited annually by an independent certified public accountant.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
5 1, 2023.