117TH CONGRESS
1ST SESSION

To establish American opportunity accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Booker (for himself, Ms. Baldwin, Mr. Schumer, Mrs. Gillibrand, Mr. Coons, Mr. Merkley, Mr. Markey, Mr. Van Hollen, Mr. Brown, Mr. Heinrich, Mr. Schatz, Ms. Warren, Mr. Sanders, Mr. Durbin, and Ms. Klobuchar) introduced the following bill; which was read twice and referred to the Committee on __________

A BILL

To establish American opportunity accounts, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

3 (a) Short Title.—This Act may be cited as the “American Opportunity Accounts Act”.

4 (b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. American Opportunity Fund.
Sec. 4. AO accounts.
Sec. 5. Assignment, alienation, and treatment of deceased individuals.
Sec. 6. Rules governing AO accounts relating to investment, accounting, and reporting.
Sec. 7. American Opportunity Fund Board.
Sec. 8. Fiduciary responsibilities.
Sec. 9. Accounts disregarded in determining eligibility for Federal benefits.
Sec. 10. Reports.
Sec. 11. Programs for promoting financial capability.

SEC. 2. DEFINITIONS.

For purposes of this title—

(1) AMERICAN OPPORTUNITY FUND.—The term “American Opportunity Fund” means the fund established under section 3.

(2) AO ACCOUNT.—The term “AO account” means an American opportunity account established under section 4.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Treasury or the Secretary’s delegate.

(4) AMERICAN OPPORTUNITY FUND BOARD.—The term “American Opportunity Fund Board” means the board established pursuant to section 7.

(5) EXECUTIVE DIRECTOR.—The term “Executive Director” means the executive director appointed pursuant to section 7.

SEC. 3. AMERICAN OPPORTUNITY FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the “American Opportunity Fund”.
(b) AMOUNTS HELD BY FUND.—The American Opportunity Fund consists of the sum of all amounts paid into the Fund under this title, increased by the total net earnings from investments of sums held in the Fund or reduced by the total net losses from investments of sums held in the Fund, and reduced by the total amount of payments made from the Fund (including payments for administrative expenses).

(c) USE OF FUND.—

(1) IN GENERAL.—The sums in the American Opportunity Fund are appropriated and shall remain available without fiscal year limitation—

(A) to make contributions to AO accounts;

(B) to invest under section 6;

(C) to make distributions in accordance with this title;

(D) to pay the administrative expenses of carrying out this title; and

(E) to purchase insurance as provided in section 8(e)(2).

(2) EXCLUSIVE PURPOSES.—The sums in the American Opportunity Fund shall not be appropriated for any purpose other than the purposes specified in this section and may not be used for any other purpose.
(d) Transfers to American Opportunity Fund.—The Secretary shall make transfers from the general fund of the Treasury to the American Opportunity Fund as follows:

(1) Initial contribution for eligible individuals born after December 31, 2021.—Upon receipt of a certification under section 4(b)(2) with respect to an individual born after December 31, 2021, the Secretary shall transfer $1,000 to the AO account of the individual.

(2) Annual contributions.—

(A) In general.—Each year which occurs after the year in which an AO account is established for an eligible individual and before the year the eligible individual attains the age of 18, the Secretary shall transfer the annual contribution amount to the AO account of the individual.

(B) Annual contribution amount.—The annual contribution amount shall be the amount such that the annual contribution amount for any taxpayer whose household income is within an income tier specified in the following table shall decrease, on a sliding scale in a linear manner, from the initial amount to
the final amount specified in such table for such income tier:

<table>
<thead>
<tr>
<th>In the case of household income (expressed as a percent of the poverty line) within the following income tier:</th>
<th>The initial amount is—</th>
<th>The final amount is—</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to 100 percent</td>
<td>$2,000</td>
<td>$2,000</td>
</tr>
<tr>
<td>100 percent up to 125 percent</td>
<td>2,000</td>
<td>1,500</td>
</tr>
<tr>
<td>125 percent up to 175 percent</td>
<td>1,500</td>
<td>1,000</td>
</tr>
<tr>
<td>175 percent up to 225 percent</td>
<td>1,000</td>
<td>500</td>
</tr>
<tr>
<td>225 percent up to 325 percent</td>
<td>500</td>
<td>250</td>
</tr>
<tr>
<td>325 percent up to 500 percent</td>
<td>250</td>
<td>0</td>
</tr>
<tr>
<td>500 percent or more</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

(C) APPLICABLE HOUSEHOLD INCOME;

POVERTY LINE.—For purposes of this paragraph—

(i) APPLICABLE HOUSEHOLD INCOME.—The term “applicable household income” means household income (as defined in section 36B(d) of the Internal Revenue Code of 1986), except that—

(I) with respect to any calendar year, the Secretary shall use the income of the second calendar year preceding the calendar year for which the contribution relates; and

(II) in determining household income the Secretary shall aggregate the income of married individuals filing separate tax returns.
(ii) Special rule for individuals not filing returns.—

(I) In general.—In the case of any taxpayer who was not required to file a return of tax for the tax imposed by section 1 for the taxable year described in clause (i)(I) or for whom the information described in clause (i) is not available for such year, such taxpayer shall be treated as a taxpayer with a household income which is less than 100 percent of the poverty line.

(II) Use of other data.—Subclause (I) shall not apply if the Secretary determines, based on such other information from any agency of the United States as the Secretary determines is reliable, that the taxpayer’s household income for such year is 100 percent of the poverty line or greater.

(iii) Poverty line.—The term “poverty line” has the meaning given such term
under section 36B(d) of the Internal Revenue Code of 1986.

(D) Authority to provide tax information.—

(i) In general.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(23) Disclosure of return information to carry out eligibility requirements for certain programs.—

“(A) In general.—The Secretary shall disclose to officers and employees of the Department of Treasury or the American Opportunity Fund Board return information of any taxpayer whose income is relevant in determining any annual contribution to an American Opportunity Account under section 3 of the American Opportunity Accounts Act. Such return information shall be limited to—

“(i) taxpayer identity information with respect to such taxpayer,

“(ii) the filing status of such taxpayer,
“(iii) the number of individuals for whom a deduction is allowed under section 151 with respect to the taxpayer (including the taxpayer and the taxpayer’s spouse),

“(iv) the modified adjusted gross income (as defined in section 36B) of such taxpayer, of any spouse of such taxpayer who filed a separate return, and of each of the other individuals included under clause (iii) who are required to file a return of tax imposed by chapter 1 for the taxable year,

“(v) such other information as is prescribed by the Secretary by regulation as might indicate whether the taxpayer is eligible for such an annual contribution (and the amount thereof), and

“(vi) the taxable year with respect to which the preceding information relates or, if applicable, the fact that such information is not available.

“(B) Restriction on use of disclosed information.—Return information disclosed under subparagraph (A) may be used by officers and employees of the Department of Treasury or the American Opportunity Fund Board
for the purposes of, and to the extent necessary in establishing eligibility for, and verifying the appropriate amount of, any annual contribution described in subparagraph (A).”.

(ii) Procedures and record-keeping related to disclosures.—
Paragraph (4) of section 6103(p) of such Code is amended by striking “or (22)” each place it appears and inserting “(22), or (23)”.

(E) Study on incorporation of other wealth factors.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall submit to Congress and the Secretary of Treasury a report on the feasibility and distributive impacts of a new measure for determining the amount of the annual contribution amount under this paragraph based on family wealth, total assets, and overall net worth. Such measure may—

(i) include financial assets, the value of family home, retirement accounts, business and entrepreneurial ventures, potential future inheritances, and any other assets or debts; and
(ii) continue to factor in current or past income to the extent such information is useful in estimating overall household wealth.

(3) ADJUSTMENT FOR INFLATION.—

(A) IN GENERAL.—For each calendar year beginning after 2022, each of the dollar amounts under paragraphs (1) and (2)(B)(i) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) of the Internal Revenue Code of 1986 determined by substituting “calendar year 2021” for “calendar year 2016” in subparagraph (A)(ii) thereof.

(B) ROUNING.—If any amount adjusted under paragraph (1) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.

(e) PROHIBITION ON USE OF PAYROLL TAXES TO FUND AO ACCOUNTS.—The American Opportunity Fund and AO accounts are wholly separate and unique from the Social Security system. No amount from any tax on employment may be contributed to the American Opportunity Fund or AO accounts.
SEC. 4. AO ACCOUNTS.

(a) IN GENERAL.—

(1) ESTABLISHMENT.—The Executive Director shall establish in the American Opportunity Fund an account (to be known as an “American Opportunity account” or an “AO account”) for each eligible individual certified under subsection (b). Each such account shall be identified to its account holder by means of a unique personal identifier currently recognized by the Internal Revenue Service and shall remain in the American Opportunity Fund.

(2) ACCOUNT BALANCE.—The balance in an account holder’s AO account at any time is the excess of—

(A) the sum of—

(i) all deposits made into the American Opportunity Fund and credited to the account under paragraph (3); and

(ii) the total amount of allocations made to and reductions made in the account pursuant to paragraph (4); over

(B) the amounts paid out of the account with respect to such individual under subsection (c).

(3) CREDITING OF CONTRIBUTIONS.—Pursuant to regulations which shall be prescribed by the Exec-
utive Director, the Executive Director shall credit to each AO account the amounts paid into the American Opportunity Fund under section 3(d) which are attributable to the account holder of such account.

(4) Allocation of earnings and losses.— The Executive Director shall allocate to each AO account an amount equal to the net earnings and net losses from each investment of sums in the American Opportunity Fund which are attributable, on a pro rata basis, to sums credited to such account, reduced by an appropriate share of the administrative expenses paid out of the net earnings, as determined by the Executive Director.

(b) Eligible Individual.—For purposes of this title—

(1) In general.—The term “eligible individual” means any individual who—

(A) was born after December 31, 2005;

(B) has not yet attained the age of 18 years; and

(C) has a valid, unique, Federal Government issued identification number recognized by the Internal Revenue Service.

(2) Certification of account holders.—
(A) AUTOMATIC CERTIFICATION FOR CERTAIN INDIVIDUALS BORN AFTER DECEMBER 31, 2021.—On any date after December 31, 2021, on which an eligible individual is issued a social security account number under section 203(c)(2) of the Social Security Act, the Commissioner of Social Security shall certify to the Executive Director and the Secretary of the Treasury the name of, and social security number issued to, such eligible individual.

(B) OTHER INDIVIDUALS.—In the case of an eligible individual who is not certified under subparagraph (A), such individual may request the establishment an AO account under this subparagraph by application to the Executive Director, and the Executive Director shall certify such individual under this subparagraph.

(c) RESTRICTIONS ON DISTRIBUTIONS.—

(1) AGE-RELATED RESTRICTIONS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, no amount may be distributed from an AO account before the date on which the account holder attains the age of 18.
(B) Higher Education Expenses.—
Subparagraph (A) shall not apply to amounts paid for qualified tuition and related expenses (as defined in section 25A(f)(1) of the Internal Revenue Code of 1986) of the account holder if the account holder is an eligible student (as defined in section 25A(b)(3) of such Code) with respect to such expenses.

(C) Authority to provide higher age limit for certain distributions.—The Secretary, in consultation with the American Opportunity Fund Advisory Board, may by regulations provide for a higher age limitation with respects to distributions relating to certain categories of qualified expenses if the Secretary determines that such higher age limitation is appropriate.

(2) Use-related restrictions.—
(A) In general.—No amount may be distributed from an AO account unless the account holder establishes, under rules established by the Executive Director in consultation with the American Opportunity Fund Advisory Board, that such amount shall be used for a qualified expense.
(B) QUALIFIED EXPENSE.—For purposes of this subsection—

(i) IN GENERAL.—The term “qualified expense” means expenses for any of the following:

(I) Education of the account holder at—

(aa) an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)); or

(bb) an area career and technical education school (as defined in section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302)).

(II) Ownership of a home by the account holder.

(III) Any expenses paid or incurred on or after the date on which the account holder attains age 59 1/2.

(IV) Any other investment in financial assets or personal capital that provides long-term gains to wages and
wealth, as established under regulations promulgated by the Secretary, in consultation with the Executive Director and the American Opportunity Fund Advisory Board.

(ii) EXCEPTION.—Such term shall not include any expense described in clause (i) which is paid to a person who does not meet such standards as are prescribed by the Secretary, in consultation with the Executive Director and the American Opportunity Fund Advisory Board.

(3) AMERICAN OPPORTUNITY ACCOUNT ADVISORY BOARD.—For purposes of this subsection, the term “American Opportunity Fund Advisory Board” means an advisory board established by the Secretary consisting of individuals with expertise in savings and asset-building, home financing, education financing, consumer financial protection, and such other areas as the Secretary may determine appropriate.

SEC. 5. ASSIGNMENT, ALIENATION, AND TREATMENT OF DECEASED INDIVIDUALS.

(a) ASSIGNMENT AND ALIENATION.—Under regulations which shall be prescribed by the Executive Director,
rules relating to assignment and alienation applicable under chapter 84 of title 5, United States Code, with re-
pect to amounts held in accounts in the Thrift Savings Fund shall apply with respect to amounts held in AO ac-
counts in the American Opportunity Fund.

(b) **TREATMENT OF ACCOUNTS OF DECEASED INDIVIDUALS.**—In the case of a deceased account holder of an AO account which has an account balance greater than zero, upon receipt of notification of such individual’s death, the Executive Director shall close the account and shall transfer the balance in such account to the AO ac-
count of such account holder’s surviving spouse or, if there is no such account of a surviving spouse, to the duly ap-
pointed legal representative of the estate of the deceased account holder, or if there is no such representative, to the person or persons determined to be entitled thereto under the laws of the domicile of the deceased account holder.

SEC. 6. RULES GOVERNING AO ACCOUNTS RELATING TO IN-
VESTMENT, ACCOUNTING, AND REPORTING.

(a) **INVESTMENT PROGRAM.**—

(1) **IN GENERAL.**—The American Opportunity Fund Board shall invest amounts in the American Opportunity Fund in securities of the United States Government issued as provided in paragraph (2).
(2) **Securities.**—

(A) **In General.**—The Secretary of the Treasury is authorized to issue special interest-bearing obligations of the United States for purchase by the American Opportunity Fund.

(B) **Investment.**—

(i) Obligations issued for the purpose of this paragraph shall have maturities fixed with due regard to the needs of the American Opportunity Fund as determined by the Executive Director, and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue of such obligations) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable earlier than 10 years after the end of such calendar month.

(ii) Any average market yield computed under clause (i) which is not a multiple of one-eighth of 1 percent, shall be
rounded to the nearest multiple of one-eighth of 1 percent.

(b) INDEPENDENT PUBLIC ACCOUNTANT.—

(1) IN GENERAL.—Under regulations which shall be prescribed by the Executive Director, and subject to the provisions of this title, section 8439(b) of title 5, United States Code (relating to engagement of independent qualified public accountant), shall apply with respect to the American Opportunity Fund and accounts maintained in such Fund in the same manner and to the same extent as such section relates to the Thrift Savings Fund and the accounts maintained in the Thrift Savings Fund.

(2) APPLICATION RULES.—For purposes of paragraph (1), references in such section 8439(b) to an employee, Member, former employee, or former Member shall be deemed references to an account holder of an AO account in the American Opportunity Fund.

(e) CONFIDENTIALITY AND DISCLOSURE.—

(1) IN GENERAL.—Except as otherwise authorized by Federal law, the American Opportunity Fund Board, the Executive Director, and any employee of the American Opportunity Fund Board shall not disclose information with respect to the
American Opportunity Fund or any account maintained in such Fund.

(2) Disclosure to Designee of Beneficiary.—The Executive Director may, subject to such requirements and conditions as he may prescribe by regulations, disclose such information with respect to the AO account of the beneficiary to such person or persons as the beneficiary may designate in a request for or consent to such disclosure, or to any other person at the beneficiary’s request to the extent necessary to comply with a request for information or assistance made by the beneficiary to such other person.

SEC. 7. AMERICAN OPPORTUNITY FUND BOARD.

(a) In General.—There is established in the executive branch of the Government an American Opportunity Fund Board.

(b) Composition, Duties, and Responsibilities.—Subject to the provisions of this title, the following provisions shall apply with respect to the American Opportunity Fund Board in the same manner and to the same extent as such provisions relate to the Federal Retirement Thrift Investment Board:
(1) Section 8472 of title 5, United States Code (relating to composition of Federal Retirement Thrift Investment Board).

(2) Section 8474 of such title (relating to Executive Director).

(3) Section 8476 of such title (relating to administrative provisions).

SEC. 8. FIDUCIARY RESPONSIBILITIES.

(a) IN GENERAL.—Under regulations of the Secretary of Labor, the provisions of sections 8477 and 8478 of title 5, United States Code, shall apply in connection with the American Opportunity Fund and the accounts maintained in such Fund in the same manner and to the same extent as such provisions apply in connection with the Thrift Savings Fund and the accounts maintained in the Thrift Savings Fund.

(b) INVESTIGATIVE AUTHORITY.—Any authority available to the Secretary of Labor under section 504 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1134) is hereby made available to the Secretary of Labor, and any officer designated by the Secretary of Labor, to determine whether any person has violated, or is about to violate, any provision applicable under subsection (a).

(c) EXCULPATORY PROVISIONS; INSURANCE.—
(1) IN GENERAL.—Any provision in an agreement or instrument which purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this title shall be void.

(2) INSURANCE.—Amounts in the American Opportunity Fund available for administrative expenses shall be available and may be used at the discretion of the Executive Director to purchase insurance to cover potential liability of persons who serve in a fiduciary capacity with respect to the Fund and accounts maintained therein, without regard to whether a policy of insurance permits recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation.

SEC. 9. ACCOUNTS DISREGARDED IN DETERMINING ELIGIBILITY FOR FEDERAL BENEFITS.

Amounts in any AO account shall not be taken into account in determining any individual’s or household’s financial eligibility for, or amount of, any benefit or service, paid for in whole or in part with Federal funds, including student financial aid.

SEC. 10. REPORTS.

(a) REPORTS TO CONGRESS.—The Executive Director, in consultation with the Secretary, shall annually
transmit a written report to the Congress. Such report shall include—

   (1) a detailed description of the status and operation of the American Opportunity Fund and the management of the AO accounts; and

   (2) a detailed accounting of the administrative expenses in carrying out this title, including the ratio of such administrative expenses to the balance of the American Opportunity Fund and the methodology adopted by the Executive Director for allocating such expenses among the AO accounts.

(b) **REPORTS TO ACCOUNT HOLDERS.**—The American Opportunity Fund Board shall prescribe regulations under which each individual for whom an AO account is maintained shall be furnished with an annual statement relating to the individual’s account, which shall include—

   (1) a statement of the balance of individual’s AO account;

   (2) a projection of the account’s growth by the time the individual attains the age of 18; and

   (3) such other information as the Secretary deems relevant.
SEC. 11. PROGRAMS FOR PROMOTING FINANCIAL CAPABILITY.

The Secretary of the Treasury, in coordination with the Financial Literacy and Education Commission, shall develop programs to promote the financial capability of account holders of AO accounts.

SEC. 12. TAX TREATMENT.

(a) CONTRIBUTIONS AND DISTRIBUTIONS.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 139H the following new section:

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(b) TAX TREATMENT OF EARNINGS AND DISTRIBUTIONS.—Subchapter F of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new part:

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“PART IX—AMERICAN OPPORTUNITY FUND AND AO ACCOUNTS

“Sec. 530A. American Opportunity Fund and AO accounts.
“SEC. 530A. AMERICAN OPPORTUNITY FUND AND AO ACCOUNTS.

“(a) GENERAL RULE.—The American Opportunity Fund and AO accounts shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, a AO account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

“(b) DEFINITIONS.—For purposes of this section, the terms ‘American Opportunity Fund’ and ‘AO account’ have the meanings given such terms under the American Opportunity Accounts Act.’”.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item related to section 139H the following new item:

“Sec. 139I. Contributions to and distributions from AO accounts.”.

(2) The table of parts for subchapter F of chapter 1 of such Code is amended by adding at the end the following new item:

“PART IX—AMERICAN OPPORTUNITY FUND AND AO ACCOUNTS”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2021.