

115TH CONGRESS
2D SESSION

H. R. 5199

To amend the Elementary and Secondary Education Act of 1965 to allow parents of eligible military dependent children to establish Military Education Savings Accounts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2018

Mr. BANKS of Indiana (for himself, Mr. SCALISE, Mr. MCHENRY, Mr. WALKER, Mr. MESSER, Mr. ROKITA, Mr. RATCLIFFE, Mr. LOUDERMILK, Mr. DESJARLAIS, Mr. KELLY of Mississippi, Mr. MEADOWS, Mr. MOOLENAAR, Mr. BUCK, Mr. WEBSTER of Florida, Mrs. WAGNER, Mr. SMITH of Missouri, Mr. KELLY of Pennsylvania, Mr. LAMBORN, Mr. PERRY, Mr. HARRIS, Mr. LATTA, Mr. BUDD, Mr. DUNCAN of South Carolina, Mr. FARENTHOLD, Mr. PEARCE, Mr. GIBBS, Mr. PITTENGER, Mrs. BLACKBURN, Mr. BIGGS, and Mr. ESTES of Kansas) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Elementary and Secondary Education Act of 1965 to allow parents of eligible military dependent children to establish Military Education Savings Accounts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Education Savings Ac-
3 counts for Military Families Act of 2018”.

4 **SEC. 2. MILITARY EDUCATION SAVINGS ACCOUNTS.**

5 Title VII of the Elementary and Secondary Edu-
6 cation Act of 1965 (20 U.S.C. 7701 et seq.) is amended
7 by inserting after section 7012 the following:

8 **“SEC. 7012A. MILITARY EDUCATION SAVINGS ACCOUNTS.**

9 “(a) IN GENERAL.—The Secretary of Education, in
10 consultation with the Secretary of Defense, shall carry out
11 a program under which the Secretary of Education shall—

12 “(1) subject to the availability of funds pursu-
13 ant to section 7014(f), at the request of a parent of
14 an eligible military dependent child, establish an ac-
15 count on behalf of such child (to be known as a
16 ‘Military Education Savings Account’) into which
17 the Secretary shall deposit funds in an amount de-
18 termined under subsection (d); and

19 “(2) establish a procedure under which the par-
20 ent of the child may use funds in the account to pay
21 for the educational expenses of the child in accord-
22 ance with this section.

23 “(b) APPLICATION.—

24 “(1) IN GENERAL.—To be eligible to participate
25 in the program under this section for a school year,
26 a parent of an eligible military dependent child shall

1 submit an application to the Secretary of Education
2 in accordance with this subsection.

3 “(2) APPLICATION PROCESS.—In carrying out
4 paragraph (1), the Secretary of Education shall—

5 “(A) accept applications on a year-round
6 basis and establish procedures for approving
7 applications in an expeditious manner; and

8 “(B) create a standardized form that par-
9 ents can use to apply for the program and en-
10 sure that such form is readily available in writ-
11 ten and electronic formats, including on a pub-
12 licly accessible website.

13 “(3) APPROVAL.—Subject to the availability of
14 funds to carry out this section, the Secretary shall
15 approve the application of a parent to establish a
16 Military Education Savings Account if—

17 “(A) the application is submitted in ac-
18 cordance with the application process estab-
19 lished by the Secretary pursuant to this sub-
20 section;

21 “(B) the application demonstrates that the
22 child on whose behalf the Military Education
23 Savings Account is to be established is an eligi-
24 ble military dependent child; and

1 “(C) the parent who submits the applica-
2 tion enters into a written agreement with the
3 Secretary pursuant to subsection (c).

4 “(4) RENEWALS.—The Secretary of Education
5 shall establish an expedited application process for
6 the renewal of a previously established Military Edu-
7 cation Savings Account.

8 “(c) WRITTEN AGREEMENT.—As a condition of par-
9 ticipating in the program under this section, the parent
10 of a child on whose behalf a Military Education Savings
11 Account is established shall enter into a written agreement
12 with the Secretary under which the parent agrees—

13 “(1) to provide the child with instruction in, at
14 minimum, the fields of reading, language, mathe-
15 matics, science, and social studies;

16 “(2) to not enroll the child in a public school
17 on a full-time basis while participating in the pro-
18 gram;

19 “(3) to use funds in the Military Education
20 Savings Account only for the purposes authorized
21 under this section; and

22 “(4) to comply with all other requirements of
23 this section.

24 “(d) AMOUNT OF DEPOSITS.—

1 “(1) FIRST YEAR OF PROGRAM.—The amount
2 of funds deposited into each Military Education Sav-
3 ings Account for the first school year for which such
4 accounts are established under this section shall
5 be—

6 “(A) \$4,500 for an account established for
7 an eligible military dependent child described in
8 subsection (t)(1)(A); and

9 “(B) \$2,500 for an account established for
10 an eligible military dependent child described in
11 subsection (t)(1)(B).

12 “(2) SUBSEQUENT YEARS.—The amount of
13 funds deposited into each Military Education Sav-
14 ings Account for any school year after the year de-
15 scribed in paragraph (1), shall be the amount deter-
16 mined under this subsection for the previous school
17 year increased by a percentage equal to the percent-
18 age increase in the Chained Consumer Price Index
19 for All Urban Consumers (as published by the Bu-
20 reau of Labor Statistics of the Department of
21 Labor) over the period of such previous school year.

22 “(3) SOURCE OF FUNDS.—In accordance with
23 section 7014(f), funds deposited into a Military Edu-
24 cation Savings Account under this subsection shall
25 be drawn from amounts otherwise appropriated to

1 carry out the impact aid program under section
2 7003 and no additional funds may be appropriated
3 for the purpose of carrying out this subsection.

4 “(e) USE OF FUNDS.—Funds deposited into a Mili-
5 tary Education Savings Account for a school year may be
6 used by the parent of an eligible military dependent child
7 to make payments to a qualified educational service pro-
8 vider for—

9 “(1) costs of attendance at a private elementary
10 school or secondary school recognized by the State,
11 which may include a private school that is a religious
12 institution;

13 “(2) private online learning programs;

14 “(3) private tutoring;

15 “(4) services provided by a public elementary
16 school or secondary school attended by the child on
17 a less than full-time basis, including individual class-
18 es and extracurricular activities and programs;

19 “(5) textbooks, curriculum programs, or other
20 instructional materials, including any supplemental
21 materials required by a curriculum program, private
22 school, private online learning program, or a public
23 school, or any parent directed curriculum associated
24 with K–12 education;

1 “(6) computer hardware or other technological
2 devices that are used to help meet a student’s edu-
3 cational needs, except that such hardware or devices
4 may not be purchased by a parent more than once
5 in an 18-month period;

6 “(7) educational software and applications;

7 “(8) uniforms purchased from or through a pri-
8 vate school recognized by the State;

9 “(9) fees for nationally standardized assessment
10 exams, advanced placement exams, any exams re-
11 lated to college or university admission, or tuition or
12 fees for preparatory courses for such exams;

13 “(10) fees for summer education programs and
14 specialized after-school education programs (but not
15 including after-school childcare);

16 “(11) educational services and therapies, in-
17 cluding occupational, behavioral, physical, speech-
18 language, and audiology therapies;

19 “(12) fees for transportation paid to a fee-for-
20 service transportation provider for the student to
21 travel to and from the facilities of a qualified edu-
22 cational service provider;

23 “(13) costs of attendance at an institution of
24 higher education;

1 “(14) costs associated with an apprenticeship or
2 other vocational training program;

3 “(15) fees for state-recognized industry certifi-
4 cation exams, and tuition or fees for preparatory
5 courses for such exams;

6 “(16) contributions to a college savings ac-
7 count, which may include contributions to a qualified
8 tuition program (as defined in section 529(b)(1)(A)
9 of the Internal Revenue Code of 1986) or other pre-
10 paid tuition plan offered by a State; or

11 “(17) any other educational expenses approved
12 by the Secretary.

13 “(f) TRANSFER SCHEDULE.—The Secretary of Edu-
14 cation shall make quarterly transfers of the amount cal-
15 culated pursuant to subsection (d) for deposit into the ac-
16 count of each qualified student, except that the Secretary
17 may make transfers according to another transfer sched-
18 ule if the Secretary determines that a transfer schedule
19 other than quarterly transfers is necessary for the oper-
20 ation of the education savings account. Parents shall be
21 required to complete an expense report issued by the Sec-
22 retary electronically or in paper format prior to the next
23 quarter’s deposit.

24 “(g) ROLLOVER.—Amounts remaining in the Military
25 Education Savings Account of a student at the end of a

1 school year shall remain available for use in accordance
2 with subsection (e) until the date on which such account
3 terminates under subsection (h).

4 “(h) TERMINATION AND RETURN OF FUNDS.—

5 “(1) TERMINATION.—The Military Education
6 Savings Account of a student shall terminate on—

7 “(A) the date on which the student enrolls
8 in a public elementary school or secondary
9 school on a full-time basis;

10 “(B) in the case of a student who is pur-
11 suing postsecondary education, the earlier of—

12 “(i) the date on which the student
13 completes postsecondary education; or

14 “(ii) the date on which the student at-
15 tains the age of 22 years;

16 “(C) in the case of a student who is an in-
17 dividual with a disability, the date on which the
18 student attains the age of 26 years; or

19 “(D) in the case of an individual not de-
20 scribed in subparagraphs (B) or (C), the earlier
21 of—

22 “(i) the date on which the student at-
23 tains the age of 22 years; or

1 “(ii) the expiration of any 4-year pe-
2 riod during which funds in the account are
3 not used in accordance with this section.

4 “(2) RETURN OF FUNDS.—Any funds remain-
5 ing in a Military Education Savings account before
6 such account terminates under paragraph (1) shall
7 be—

8 “(A) returned to the Secretary of Edu-
9 cation; and

10 “(B) used for the program under this sec-
11 tion.

12 “(i) COMPULSORY ATTENDANCE REQUIREMENTS.—
13 A State that receives funds under this title shall consider
14 a child with a Military Education Savings Account for a
15 school year as meeting the State’s compulsory school at-
16 tendance requirements for such school year.

17 “(j) SPECIAL RULE.—In the case of a child with a
18 Military Education Savings Account who attends a public
19 school on a less than full-time basis in a school year—

20 “(1) the child may not attend the public school
21 free of charge; and

22 “(2) funds in the account, in an amount deter-
23 mined pursuant to an agreement between the parent
24 of the child and the local educational agency con-

1 cerned, shall be used to pay for the child's costs of
2 attendance at such school.

3 “(k) TAX TREATMENT OF ACCOUNTS.—

4 “(1) IN GENERAL.—A Military Education Sav-
5 ings Account is exempt from taxation under subtitle
6 A of the Internal Revenue Code of 1986.

7 “(2) CONTRIBUTIONS AND DISTRIBUTIONS.—

8 For purposes of such subtitle—

9 “(A) any contribution to a military edu-
10 cation savings account by the Secretary under
11 this Act shall not be includible in the gross in-
12 come of the individual for whose benefit such
13 account is maintained or the parent of such in-
14 dividual; and

15 “(B) any distribution from a military edu-
16 cation savings account which is permitted under
17 this Act shall not be includible in the gross in-
18 come of the individual for whose benefit such
19 account is maintained or the parent of such in-
20 dividual.

21 “(l) PRIVACY.—Section 444 of the General Education
22 Provisions Act (commonly known as the ‘Family Edu-
23 cational Rights and Privacy Act of 1974’) (20 U.S.C.
24 1232g) shall apply to a qualified educational service pro-
25 vider in the same manner that such section applies to an

1 educational agency or institution (as that term is defined
2 in such section).

3 “(m) FRAUD PREVENTION AND REPORTING.—The
4 Secretary of Education shall establish a website and a tele-
5 phone hotline that enable individuals to anonymously re-
6 port suspected fraud in the program under this section.
7 The Secretary also shall conduct or contract for random,
8 quarterly, or annual audits of accounts as needed to en-
9 sure compliance with this section.

10 “(n) CONTRACT AUTHORITY.—The Secretary of
11 Education may enter into one or more contracts for the
12 purpose of carrying out the responsibilities of the Sec-
13 retary under this section.

14 “(o) SURETY BOND.—

15 “(1) IN GENERAL.—The Secretary shall require
16 each qualified educational service provider that re-
17 ceives not less than \$100,000 in funds from Military
18 Education Savings Accounts in a school year to post
19 a surety bond, in an amount determined by the Sec-
20 retary, for such school year.

21 “(2) RETENTION.—The Secretary shall pre-
22 scribe the circumstances under which a surety bond
23 under paragraph (1) may be retained by the Sec-
24 retary.

1 “(p) REFUNDS.—The Secretary shall establish a
2 process under which payments from a Military Education
3 Savings Accounts to a qualified educational service pro-
4 vider may be refunded to the account in the event of fraud
5 or nonperformance by the provider.

6 “(q) RULES OF CONSTRUCTION.—

7 “(1) NONAGENCY.—A qualified educational
8 service provider that receives a payment from a Mili-
9 tary Education Savings Account pursuant to this
10 section shall not be considered an agent of the State
11 or the Federal Government solely because the pro-
12 vider received such payment.

13 “(2) FEDERAL OR STATE SUPERVISION.—Noth-
14 ing in this section shall be construed to allow any
15 agency of a State or the Federal Government to ex-
16 ercise control or supervision over any qualified edu-
17 cational service provider.

18 “(3) IMPOSITION OF ADDITIONAL REQUIRE-
19 MENTS.—Nothing in this section shall be construed
20 to require a qualified educational service provider to
21 alter its creed, practices, admissions policy, or cur-
22 riculum in order to be eligible to receive payments
23 from a Military Education Savings Account.

24 “(4) TREATMENT OF ASSISTANCE.—For pur-
25 poses of any Federal law, assistance provided under

1 this section shall be considered assistance to the
2 military dependent student or to the parents of a
3 student on whose behalf a Military Education Sav-
4 ings Account is established and shall not be consid-
5 ered assistance to the qualified educational service
6 provider that uses or receives funds from a Military
7 Education Savings Account.

8 “(r) LEGAL PROCEEDINGS.—

9 “(1) BURDEN.—In any legal proceeding in
10 which a qualified educational service provider chal-
11 lenges a requirement imposed by the Department of
12 Education on the provider, the Department shall
13 have the burden of establishing that the law is nec-
14 essary and does not impose any undue burden on
15 the provider.

16 “(2) LIMITATION ON LIABILITY.—

17 “(A) IN GENERAL.—No liability shall arise
18 on the part of an entity described in subpara-
19 graph (B) solely because such entity awards,
20 uses, or receives funds from a Military Edu-
21 cation Savings Account.

22 “(B) ENTITY DESCRIBED.—The entities
23 described in this subparagraph are the fol-
24 lowing:

25 “(i) The Department of Education.

1 “(ii) An entity that enters into a con-
2 tract with the Secretary pursuant to sub-
3 section (n).

4 “(3) INTERVENTION.—

5 “(A) IN GENERAL.—Except as provided in
6 subparagraph (B), a parent of an eligible mili-
7 tary dependent student or a parent of a student
8 on whose behalf a Military Education Savings
9 Account is established may intervene in any
10 legal proceeding in which the constitutionality
11 of the program under this section is challenged
12 under a State constitution or the Federal con-
13 stitution.

14 “(B) EXCEPTION.—For purposes of judi-
15 cial administration, a court may—

16 “(i) limit the number of parents al-
17 lowed to intervene in a proceeding under
18 subparagraph (A); or

19 “(ii) require all parents who have in-
20 tervened in a proceeding under subpara-
21 graph (A) to file a joint brief, except that
22 no parent shall be required to join any
23 brief filed on behalf of a State that is a de-
24 fendant in the proceeding.

1 “(s) ADMINISTRATIVE EXPENSES.—The Secretary
2 may use not more than 5 percent of the funds made avail-
3 able to carry out this section for the direct costs of admin-
4 istering Military Education Savings Accounts.

5 “(t) DEFINITIONS.—In this section:

6 “(1) The term ‘eligible military dependent child’
7 means a child who—

8 “(A)(i) has a parent on active duty in the
9 uniformed services (as that term defined in sec-
10 tion 101 of title 37, United States Code, except
11 that such term does not include an officer in
12 the National Guard who has been activated);
13 and

14 “(ii) resides within the boundaries of a
15 heavily impacted local educational agency; or

16 “(B)(i) has a parent on active duty in the
17 uniformed services (as that term defined in sec-
18 tion 101 of title 37, United States Code, except
19 that such term does not include an officer in
20 the National Guard who has been activated);

21 “(ii) resides within the boundaries of a
22 Federal military installation; and

23 “(iii) does not reside within the boundaries
24 of a heavily impacted local educational agency.

1 “(2) The term ‘heavily impacted local edu-
2 cational agency’ means a local educational agency el-
3 igible to receive a payment under section 7003(b)(2).

4 “(3) The term ‘institution of higher education’
5 has the meaning given the term in section 102 of the
6 Higher Education Act of 1965 (20 U.S.C. 1002).

7 “(4) The term ‘qualified educational service
8 provider’ means an entity or person that provides
9 educational services for which funds may be ex-
10 pended under subsection (e), including—

11 “(A) a private school;

12 “(B) a private online learning program or
13 course;

14 “(C) an institution of higher education, in-
15 cluding a state institution of higher education,
16 a junior or community college, or a postsec-
17 ondary vocational institution;

18 “(D) a public school;

19 “(E) a private tutor or entity that operates
20 a tutoring facility;

21 “(F) a provider of educational materials or
22 curriculum;

23 “(G) a provider of education-related thera-
24 pies or services; and

1 “(H) any other provider of educational
2 services approved by the Secretary.”.

3 **SEC. 3. AUTHORIZATION OF APPROPRIATIONS.**

4 Section 7014 of the Elementary and Secondary Edu-
5 cation Act of 1965 is amended by adding at the end the
6 following:

7 “(f) MILITARY EDUCATION SAVINGS ACCOUNTS.—

8 “(1) SOURCE OF FUNDS AND PROHIBITION ON
9 ADDITIONAL APPROPRIATION.—Subject to paragraph
10 (2), section 7012A shall be carried out using funds
11 otherwise appropriated to carry out the impact aid
12 program under section 7003 and no additional funds
13 may be appropriated to carry out such section
14 7012A.

15 “(2) PROHIBITION ON USE OF CERTAIN
16 FUNDS.—In making funds available to carry out sec-
17 tion 7012A under paragraph (1), the Secretary of
18 Education shall ensure that such funds are drawn
19 only from amounts otherwise made available for the
20 education of military dependent children under sec-
21 tion 7003 and not from other sources.”.

○