

114TH CONGRESS
2D SESSION

H. R. 5517

To require States to distribute funds for elementary and secondary education in the form of vouchers for eligible students, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 2016

Mrs. LUMMIS (for herself, Mr. MULVANEY, and Mr. SALMON) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To require States to distribute funds for elementary and secondary education in the form of vouchers for eligible students, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Local Education Free-
5 dom Act of 2016”.

6 **SEC. 2. EDUCATION VOUCHER PROGRAM.**

7 (a) IN GENERAL.—Notwithstanding any other provi-
8 sion of law, as a condition of receiving Federal funds for

1 elementary and secondary education, each State shall
2 carry out the program described under this Act.

3 (b) BASIC ELEMENTS.—

4 (1) PARENTAL CHOICE IN EDUCATION.—

5 (A) IN GENERAL.—Beginning with the
6 2017–2018 academic year, a parent of an eligi-
7 ble child may—

8 (i) enter into an agreement with a
9 State educational agency for any academic
10 year during which the eligible child will be
11 in a grade for which the State provides
12 free public education if—

13 (I) the public school in which the
14 eligible child is enrolled, or will be en-
15 rolled, receives Federal funds on the
16 condition of implementing a Federal
17 mandate; and

18 (II) the parent disagrees with
19 such mandate; and

20 (ii) renew such agreement for each
21 succeeding academic year during which the
22 eligible child will be in a grade for which
23 the State provides free public education.

24 (B) AGREEMENT.—An agreement under
25 this paragraph shall be entered into, or re-

newed, in a manner and on a form determined
by each State educational agency.

(2) EDUCATION SAVINGS ACCOUNTS.—

(A) IN GENERAL.—Each State educational
agency shall—

(i) provide an education savings account to each eligible child whose parent enters into an agreement under paragraph (1)(A)(i) with the State educational agency for an academic year; and

(ii) maintain such account for each succeeding academic year for which the parent renews the agreement under paragraph (1)(A)(ii).

(B) REQUIREMENTS.—An education savings account provided under this paragraph shall meet the following requirements:

(i) The education savings account, and any funds deposited into such account, shall belong to the eligible child for whom the account was provided, and such child shall be the designated beneficiary of the account.

(ii) The only funds that may be deposited into the education savings account

1 are the funds that a State educational
2 agency disburses in accordance with sub-
3 paragraph (C).

4 (iii) The funds in the education sav-
5 ings account may be used only for the pur-
6 pose of paying for the education expenses
7 described in subsection (c) of the eligible
8 child.

9 (iv) The parent of the eligible child
10 shall have the authority to direct the use
11 of the funds in the education savings ac-
12 count to one or more qualifying providers
13 that do not implement the Federal man-
14 date with which the parent disagrees.

15 (v) Upon direction by the parent of
16 the eligible child, a State educational agen-
17 cy shall distribute the funds in the edu-
18 cation savings account to the designated
19 qualifying providers.

20 (C) AMOUNT OF FUNDS.—

21 (i) IN GENERAL.—Subject to clause
22 (ii), beginning on August 1 of each aca-
23 demic year, each State educational agency
24 shall disburse an amount equal to the aver-
25 age per-pupil expenditure of the State to

1 each education savings account provided
2 under this paragraph.

3 (ii) QUARTERLY DISBURSEMENT.—
4 Each State educational agency shall dis-
5 burse the amount of funds provided under
6 this subparagraph in 4 equal quarterly de-
7 posits.

8 (iii) CONTINUED AVAILABILITY OF
9 FUNDS.—Except as provided in clause (iv),
10 any amounts remaining in an education
11 savings account on the last day of the pe-
12 riod covered by an agreement under para-
13 graph (1)(A) shall remain available for use
14 during a succeeding academic year.

15 (iv) RECAPTURE OF FUNDS.—Each
16 State educational agency shall recapture
17 any amounts remaining in an education
18 savings account on the last day of the pe-
19 riod covered by an agreement under para-
20 graph (1)(A) if—

21 (I) the parent of the eligible child
22 ends or violates the terms of the
23 agreement during the covered period;

1 (II) the parent does not renew
2 the agreement for the immediately
3 succeeding academic year; or

4 (III) the child for whom the edu-
5 cation savings account was provided
6 no longer qualifies as an eligible child.

7 (c) ELIGIBLE EDUCATION EXPENSES.—The funds in
8 an education savings account provided under subsection
9 (b)(2) may be used only for the following education ex-
10 penses:

11 (1) Tuition and fees for a qualifying provider,
12 including any costs and fees for tutoring services,
13 specialized instructional support services, extra-
14 curricular activities, dual credit courses, and indi-
15 vidual courses.

16 (2) Required textbooks, supplemental materials,
17 and supplies.

18 (3) Textbooks, supplemental materials, and
19 supplies for self-study.

20 (4) Fees for any—

21 (A) national norm-referenced achievement
22 examination;

23 (B) advanced placement or similar exam-
24 ination; or

1 (C) standardized examination required for
 2 admission to an institution of higher education.

3 (5) Transportation for travel to and from a
 4 qualifying provider, except that not more than
 5 \$2,000 from the education savings account may be
 6 used for this purpose each academic year.

7 (6) A contribution to a qualified tuition pro-
 8 gram (as defined in section 529(b) of the Internal
 9 Revenue Code of 1986) with respect to which the eli-
 10 gible child is a designated beneficiary.

11 (7) A contribution to a Coverdell education sav-
 12 ings account (as defined in section 530(b) of the In-
 13 ternal Revenue Code of 1986) with respect to which
 14 the eligible child is a designated beneficiary, except
 15 that not more than \$2,000 from the education sav-
 16 ings account may be used for this purpose each aca-
 17 demic year.

18 (8) Any other education expense approved by
 19 the State educational agency.

20 (d) RESPONSIBILITIES OF STATE EDUCATIONAL
 21 AGENCY.—

22 (1) ANNUAL LIST OF QUALIFYING PRO-
 23 VIDERS.—

24 (A) CREATION.—Beginning on September
 25 1, 2016, each State educational agency shall—

1 (i) approve entities as qualifying pro-
2 viders for the 2017–2018 academic year;
3 and

4 (ii) prepare a list of such qualifying
5 providers.

6 (B) MAINTENANCE.—For each academic
7 year succeeding the 2017–2018 academic year,
8 each State educational agency shall renew the
9 list of qualifying providers.

10 (C) AVAILABILITY ON WEBSITE OF STATE
11 EDUCATIONAL AGENCY.—Each State edu-
12 cational agency shall make the annual list of
13 qualifying providers publicly available on the
14 website of the State educational agency.

15 (2) ACCOUNTABILITY.—Each State educational
16 agency shall take such steps as are necessary to en-
17 sure the proper implementation of this Act, includ-
18 ing—

19 (A) conducting periodic audits of education
20 savings accounts provided under subsection
21 (b)(2);

22 (B) ensuring that the funds in such ac-
23 counts are used in accordance with this Act;

24 (C) freezing or revoking an education sav-
25 ings account if fraud is detected; and

1 (D) if appropriate, referring any parent or
2 qualifying provider found to be using an edu-
3 cation savings account for unlawful purposes
4 for criminal prosecution.

5 (3) TRANSFER OF ACADEMIC RECORDS.—Upon
6 request by a State educational agency, and if appli-
7 cable, the public school in which an eligible child was
8 enrolled during the previous academic year shall pro-
9 vide the complete academic records of such child to
10 any qualifying provider that is a school and that has
11 admitted the child.

12 (e) REQUIREMENTS AND RIGHTS OF QUALIFYING
13 PROVIDERS.—

14 (1) ADMISSIONS.—A qualifying provider may—

15 (A) enforce the admissions requirements of
16 any school or program offered by the qualifying
17 provider; and

18 (B) subject to paragraph (4), accept the el-
19 igible children who are best qualified to attend
20 such school or program.

21 (2) TRANSFER OF ACADEMIC RECORDS.—Each
22 qualifying provider that is a school shall agree, as a
23 condition of participating in the program under this
24 Act, to provide the complete academic records of an
25 eligible child attending the school pursuant to an

1 agreement under subsection (b)(1)(A) to any other
2 school to which such child transfers.

3 (3) REFUNDS AND REBATES.—

4 (A) GENERAL PROHIBITION.—A qualifying
5 provider that receives funds from an education
6 savings account provided under subsection
7 (b)(2) may not—

8 (i) refund, or provide a rebate, of any
9 portion of such funds to the eligible child
10 who is the designated beneficiary of the
11 education savings account or a parent of
12 such child; or

13 (ii) share such funds with such child
14 or parent in any manner.

15 (B) EXCEPTION.—Any refund that is
16 needed for an item that is being returned, or an
17 item or service that has not been provided, shall
18 be provided to the State educational agency,
19 and the State educational agency shall deposit
20 the amounts refunded into the education sav-
21 ings account from which such amounts were
22 originally distributed.

23 (4) NONDISCRIMINATION.—

24 (A) IN GENERAL.—A qualifying provider
25 may not discriminate against program partici-

1 pants or applicants on the basis of race, color,
2 national origin, or sex.

3 (B) SINGLE SEX SCHOOLS, CLASSES, OR
4 ACTIVITIES.—Notwithstanding subparagraph
5 (A) or any other provision of law, a qualifying
6 provider may offer a single sex school, class, or
7 activity.

8 (C) RELIGIOUSLY AFFILIATED QUALIFYING
9 PROVIDERS.—

10 (i) IN GENERAL.—Notwithstanding
11 any other provision of law—

12 (I) the prohibition of sex dis-
13 crimination in subparagraph (A) shall
14 not apply to a qualifying provider that
15 is operated by, supervised by, con-
16 trolled by, or connected to a religious
17 organization to the extent that the ap-
18 plication of such subparagraph is in-
19 consistent with the religious tenets or
20 beliefs of such provider; and

21 (II) a qualifying provider that is
22 operated by, supervised by, controlled
23 by, or connected to a religious organi-
24 zation may exercise its right in mat-
25 ters of employment consistent with

1 title VII of the Civil Rights Act of
2 1964 (42 U.S.C. 2000e et seq.), in-
3 cluding the exemptions in such title.

4 (ii) MAINTENANCE OF PURPOSE.—
5 Notwithstanding any other provision of
6 law, the receipt of funds from an education
7 savings account provided under subsection
8 (b)(2) shall not, consistent with the first
9 amendment to the Constitution of the
10 United States—

11 (I) necessitate any change in the
12 teaching mission of a qualifying pro-
13 vider;

14 (II) require a qualifying provider
15 to remove religious art, icons, scrip-
16 tures, or other symbols; or

17 (III) preclude a qualifying pro-
18 vider from retaining religious terms in
19 its name, selecting board members on
20 a religious basis, or including religious
21 references in the mission statements,
22 charters, or other governing docu-
23 ments of such provider.

24 (f) RULES OF CONSTRUCTION.—

1 (1) TREATMENT OF ASSISTANCE.—For pur-
2 poses of any Federal law or program—

3 (A) no assistance provided under this Act
4 may be treated as assistance to any qualifying
5 provider; and

6 (B) the amount of any funds in an edu-
7 cation savings account provided under sub-
8 section (b)(2) may not be treated as income of
9 the eligible child who is the designated bene-
10 ficiary of the education savings account or a
11 parent of such child.

12 (2) NO ABILITY TO CONTROL CURRICULUM.—
13 Nothing in this Act shall be construed to authorize
14 any officer or employee of the Federal Government,
15 through grants, contracts, or other cooperative
16 agreements, to mandate, direct, or control the cur-
17 riculum, program of instruction, instructional con-
18 tent, academic standards, assessments, or allocation
19 of resources of a State or of any school in a State.

20 (3) NO EXTENSION OF REGULATORY AUTHOR-
21 ITY.—Nothing in this Act shall be construed to ex-
22 pand the regulatory authority of a State government
23 or the Federal Government to impose any additional
24 regulations on nonpublic schools beyond the regula-

1 tions necessary to enforce the requirements of this
2 Act.

3 (g) TRANSITION.—Each State educational agency
4 shall take steps to ensure a smooth transition to the pro-
5 gram under this Act in order to ensure that education sav-
6 ings accounts are available to eligible children beginning
7 with the 2017–2018 academic year.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

10 (1) ELIGIBLE CHILD.—The term “eligible
11 child” means a child—

12 (A) who—

13 (i) is enrolling in a public school; or

14 (ii) was enrolled in a public school
15 during the previous academic year; and

16 (B) whose parent disagrees with a Federal
17 mandate that the school implements as a condi-
18 tion of receiving Federal funds.

19 (2) ESEA TERMS.—The terms “average per-
20 pupil expenditure”, “child”, “distance learning”,
21 “free public education”, “parent”, “specialized in-
22 structional support services”, “State”, and “State
23 educational agency” have the meanings given such
24 terms in section 8101 of the Elementary and Sec-
25 ondary Education Act of 1965 (20 U.S.C. 7801).

1 (3) INSTITUTION OF HIGHER EDUCATION.—The
2 term “institution of higher education” has the
3 meaning given such term in section 102(a) of the
4 Higher Education Act of 1965 (20 U.S.C. 1002(a)).

5 (4) QUALIFYING PROVIDER.—The term “quali-
6 fying provider” means an entity that—

7 (A) is—

8 (i) a public school;

9 (ii) a nonpublic school;

10 (iii) a home school, provided that the
11 eligible child was enrolled in a public
12 school during the previous academic year;

13 (iv) a tutoring facility;

14 (v) a provider of distance learning;

15 (vi) a provider of specialized instruc-
16 tional support services; or

17 (vii) an institution of higher edu-
18 cation;

19 (B) notifies a State educational agency of
20 the intent to become a qualifying provider; and

21 (C) agrees to comply with the requirements
22 of section 2(e).

23 (5) SCHOOL.—The term “school”—

24 (A) means a preschool, kindergarten, ele-
25 mentary school, or secondary school; and

1 (B) includes charter schools.

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