

115TH CONGRESS
2D SESSION

S. 2517

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 SENATE OF THE UNITED STATES

MARCH 7, 2018

Mr. SASSE (for himself, Mr. SCOTT, and Mr. LEE) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Military Education
5 Savings Account Act of 2018”.

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

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

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

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

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

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

20 “(b) APPLICATION.—

21 “(1) IN GENERAL.—To be eligible to participate
22 in the program under this section for a school year,
23 a parent of an eligible military dependent child shall
24 submit an application to the Secretary in accordance
25 with this subsection.

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

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

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

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

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

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

23 “(C) the parent who submits the applica-
24 tion enters into a written agreement with the
25 Secretary pursuant to subsection (c).

1 “(4) RENEWALS.—The Secretary shall establish
2 an expedited application process for the renewal of
3 a previously established Military Education Savings
4 Account.

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

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

13 “(2) to not enroll the child in a public school
14 on a full-time basis while participating in the pro-
15 gram;

16 “(3) to use funds in the Military Education
17 Savings Account only for the purposes authorized
18 under this section; and

19 “(4) to comply with all other requirements of
20 this section.

21 “(d) AMOUNT OF DEPOSITS.—

22 “(1) FIRST YEAR OF PROGRAM.—The amount
23 of funds deposited into each Military Education Sav-
24 ings Account for the first school year for which such

1 accounts are established under this section shall
2 be—

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

6 “(B) \$2,500 for an account established for
7 an eligible military dependent child described in
8 subsection (t)(1)(B).

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

19 “(3) SOURCE OF FUNDS.—In accordance with
20 section 7014(f), funds deposited into a Military Edu-
21 cation Savings Account under this subsection shall
22 be drawn from amounts otherwise appropriated to
23 carry out the impact aid program under section
24 7003 and no new appropriation may be made for the
25 purpose of carrying out this subsection.

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

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

10 “(2) private online learning programs;

11 “(3) private tutoring;

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

16 “(5) textbooks, curriculum programs, or other
17 instructional materials, including any supplemental
18 materials required by a curriculum program, private
19 school, private online learning program, or a public
20 school, or any parent directed curriculum associated
21 with kindergarten through grade 12 education;

22 “(6) computer hardware or other technological
23 devices that are used to help meet a student’s edu-
24 cational needs, except that such hardware or devices

1 may not be purchased by a parent more than once
2 in an 18-month period;

3 “(7) educational software and applications;

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

6 “(9) fees for nationally standardized assessment
7 examinations, advanced placement examinations, any
8 exams related to admission to an institution of high-
9 er education, or tuition or fees for preparatory
10 courses for such examinations;

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

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

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

21 “(13) costs of attendance at an institution of
22 higher education;

23 “(14) costs associated with an apprenticeship or
24 other vocational training program;

1 “(15) fees for State-recognized industry certifi-
2 cation examinations, and tuition or fees for pre-
3 paratory courses for such examinations;

4 “(16) contributions to a college savings ac-
5 count, which may include contributions to a qualified
6 tuition program (as defined in section 529(b)(1) of
7 the Internal Revenue Code of 1986, without regard
8 to subparagraph (B) thereof) or other prepaid tui-
9 tion plan offered by a State; or

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

12 “(f) TRANSFER SCHEDULE.—The Secretary shall
13 make quarterly transfers of the amount calculated pursu-
14 ant to subsection (d) for deposit into the account of each
15 qualified student, except that the Secretary may make
16 transfers according to another transfer schedule if the
17 Secretary determines that a transfer schedule other than
18 quarterly transfers is necessary for the operation of the
19 Military Education Savings Account. Parents shall be re-
20 quired to complete an expense report issued by the Sec-
21 retary electronically or in paper format prior to the next
22 quarter’s deposit.

23 “(g) ROLLOVER.—Amounts remaining in the Military
24 Education Savings Account of a student at the end of a
25 school year shall remain available for use in accordance

1 with subsection (e) until the date on which such account
2 terminates under subsection (h).

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

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

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

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

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

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

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

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

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

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

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

5 “(A) returned to the Secretary; and

6 “(B) used for the program under this sec-
7 tion.

8 “(i) COMPULSORY ATTENDANCE REQUIREMENTS.—

9 A State that receives funds under this title shall consider
10 a child with a Military Education Savings Account for a
11 school year as meeting the State’s compulsory school at-
12 tendance requirements for such school year.

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

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

18 “(2) funds in the Account, in an amount deter-
19 mined pursuant to an agreement between the parent
20 of the child and the local educational agency con-
21 cerned, shall be used to pay for the child’s costs of
22 attendance at such school.

23 “(k) TAX TREATMENT OF ACCOUNTS.—

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

4 “(2) CONTRIBUTIONS AND DISTRIBUTIONS.—
5 For purposes of such subtitle—

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

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

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

1 “(m) FRAUD PREVENTION AND REPORTING.—The
2 Secretary shall establish a website and a telephone hotline
3 that enable individuals to anonymously report suspected
4 fraud in the program under this section. The Secretary
5 also shall conduct or contract for random, quarterly, or
6 annual audits of accounts as needed to ensure compliance
7 with this section.

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

12 “(o) SURETY BOND.—

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

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

23 “(p) REFUNDS.—The Secretary shall establish a
24 process under which payments from a Military Education
25 Savings Account to a qualified educational service provider

1 may be refunded to the account in the event of fraud or
2 nonperformance by the provider.

3 “(q) RULES OF CONSTRUCTION.—

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

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

15 “(3) NO IMPOSITION OF ADDITIONAL REQUIRE-
16 MENTS.—Nothing in this section shall be construed
17 to require a qualified educational service provider to
18 alter its creed, practices, admissions policy, or cur-
19 riculum in order to be eligible to receive payments
20 from a Military Education Savings Account.

21 “(4) TREATMENT OF ASSISTANCE.—For pur-
22 poses of any Federal law, assistance provided under
23 this section shall be considered assistance to the
24 military dependent student or to the parents of a
25 student on whose behalf a Military Education Sav-

1 ings Account is established and shall not be consid-
2 ered assistance to the qualified educational service
3 provider that uses or receives funds from a Military
4 Education Savings Account.

5 “(r) LEGAL PROCEEDINGS.—

6 “(1) BURDEN.—In any legal proceeding in
7 which a qualified educational service provider chal-
8 lenges a requirement imposed by the Department on
9 the provider, the Department shall have the burden
10 of establishing that the requirement is necessary and
11 does not impose any undue burden on the provider.

12 “(2) LIMITATION ON LIABILITY.—

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

18 “(B) ENTITY DESCRIBED.—The entities
19 described in this subparagraph are the fol-
20 lowing:

21 “(i) The Department.

22 “(ii) An entity that enters into a con-
23 tract with the Secretary pursuant to sub-
24 section (n).

25 “(3) INTERVENTION.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraph (B), a parent of an eligible mili-
3 tary dependant student or a parent of a student
4 on whose behalf a Military Education Savings
5 Account is established may intervene in any
6 legal proceeding in which the constitutionality
7 of the program under this section is challenged
8 under a State constitution or the Constitution
9 of the United States.

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

12 “(i) limit the number of parents al-
13 lowed to intervene in a proceeding under
14 subparagraph (A); or

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

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

25 “(t) DEFINITIONS.—In this section:

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

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

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

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

17 “(ii) resides within the boundaries of a
18 local educational agency eligible to receive a
19 basic support payment under section
20 7003(b)(1) that is not a heavily impacted local
21 educational agency.

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

1 “(3) The term ‘institution of higher education’
2 has the meaning given the term in section 102 of the
3 Higher Education Act of 1965.

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

8 “(A) a private school;

9 “(B) a private online learning program or
10 course;

11 “(C) an institution of higher education, in-
12 cluding a State institution of higher education,
13 a junior or community college, or a postsec-
14 ondary vocational institution;

15 “(D) a public school;

16 “(E) a private tutor or entity that operates
17 a tutoring facility;

18 “(F) a provider of educational materials or
19 curricula;

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

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

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

2 Section 7014 of the Elementary and Secondary Edu-
3 cation Act of 1965 (20 U.S.C. 7714) is amended by add-
4 ing at the end the following:

5 “(f) **MILITARY EDUCATION SAVINGS ACCOUNTS.**—

6 “(1) **SOURCE OF FUNDS AND PROHIBITION ON**
7 **NEW APPROPRIATION.**—Subject to paragraph (2),
8 section 7012A shall be carried out using funds oth-
9 erwise appropriated to carry out section 7003 and
10 no new appropriation may be made to carry out such
11 section 7012A.

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

○