

116TH CONGRESS  
1ST SESSION

# H. R. 1605

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.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2019

Mr. BANKS (for himself, Mr. YOHO, Mr. DUNCAN, Mr. WEBSTER of Florida, Mrs. LESKO, Mr. MEADOWS, Mr. GIBBS, Mr. WALKER, Mr. BURGESS, Mr. BUDD, Mr. MOONEY of West Virginia, Mr. MOOLENAAR, Mr. LOUDERMILK, Mr. AUSTIN SCOTT of Georgia, Mr. GOSAR, Mr. KELLY of Mississippi, Mrs. BROOKS of Indiana, Mr. LATTA, Mr. POSEY, Mr. MITCHELL, Mr. LAMALFA, Mr. HAGEDORN, Mr. LONG, and Mr. GREEN of Tennessee) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Ways and Means, and Appropriations, 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

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## 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 2019”.

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) at the request of a parent of an eligible  
13 military dependent child, establish an account on be-  
14 half of such child (to be known as a ‘Military Edu-  
15 cation Savings Account’) into which the Secretary  
16 shall deposit funds in an amount determined under  
17 subsection (d); and

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

22 “(b) APPLICATION.—

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

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

3 “(2) APPLICATION PROCESS.—In carrying out  
4 paragraph (1), the Secretary 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 under which the parent agrees—

4                   “(i) to provide the child with instruc-  
5                   tion in, at minimum, the fields of reading,  
6                   language, mathematics, science, and social  
7                   studies;

8                   “(ii) to not enroll the child in a public  
9                   elementary school or a public secondary  
10                  school, on a full-time basis while partici-  
11                  pating in the program;

12                  “(iii) to use funds in the Military  
13                  Education Savings Account only for the  
14                  purposes authorized under this section;  
15                  and

16                  “(iv) to comply with all other require-  
17                  ments of this section.

18           “(4) RENEWALS.—The Secretary shall establish  
19           a process for the automatic renewal of a previously  
20           established Military Education Savings Account ex-  
21           cept in cases in which—

22                   “(A) the parents of the child on whose be-  
23                   half the account was established choose not to  
24                   renew the account; or

1           “(B) the account was used to commit  
2           fraud or was otherwise not used in accordance  
3           with the requirements of this section.

4           “(c) PRIORITY IN THE EVENT OF INSUFFICIENT  
5 FUNDS.—

6           “(1) IN GENERAL.—If the funds appropriated  
7           to carry out this section are insufficient to enable  
8           the Secretary to establish and fully fund a Military  
9           Education Savings Account for each eligible child  
10          whose parent has an application approved under  
11          subsection (b) for a school year, the Secretary  
12          shall—

13                 “(A) first renew and fully fund previously  
14                 established Military Education Savings Ac-  
15                 counts; and

16                 “(B) if funds remain available after renew-  
17                 ing all accounts under subparagraph (A), con-  
18                 duct the lottery described in paragraph (3) to  
19                 select the children on whose behalf accounts will  
20                 be established using the remaining funds.

21           “(2) TRANSFER AUTHORITY.—Notwithstanding  
22          any other provision of law, the Secretary may trans-  
23          fer amounts from any account of the Department of  
24          Education to renew and fully fund previously estab-  
25          lished Military Education Savings Accounts under

1 paragraph (1)(A). The authority to transfer  
2 amounts under the preceding sentence shall not be  
3 subject to any transfer or reprogramming require-  
4 ments under any other provision of law.

5 “(3) LOTTERY.—The lottery described in this  
6 paragraph is a lottery in which—

7 “(A) siblings of children on whose behalf  
8 Military Education Savings Accounts have pre-  
9 viously been established have the highest prob-  
10 ability of selection;

11 “(B) children of enlisted members have the  
12 next-highest probability of selection after the  
13 children described in subparagraph (A);

14 “(C) children of warrant officers have the  
15 next-highest probability of selection after the  
16 children described in subparagraph (B); and

17 “(D) children of commissioned officers  
18 have the lowest probability of selection.

19 “(d) AMOUNT OF DEPOSITS.—

20 “(1) FIRST YEAR OF PROGRAM.—The amount  
21 of funds deposited into each Military Education Sav-  
22 ings Account for the first school year for which such  
23 accounts are established under this section shall be  
24 \$6,000 for each eligible military dependant child  
25 covered by the account.

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

11           “(e) USE OF FUNDS.—Funds deposited into a Mili-  
12 tary Education Savings Account for a school year may be  
13 used by the parent of an eligible military dependent child  
14 to make payments to a qualified educational service pro-  
15 vider that is approved by the Secretary under subsection  
16 (f)(1) for—

17           “(1) costs of attendance at a private elementary  
18 school or secondary school recognized by the State,  
19 which may include a private school that has a reli-  
20 gious mission;

21           “(2) private online learning programs;

22           “(3) private tutoring;

23           “(4) services provided by a public elementary  
24 school or secondary school attended by the child on

1 a less than full-time basis, including individual class-  
2 es and extracurricular activities and programs;

3 “(5) textbooks, curriculum programs, or other  
4 instructional materials, including any supplemental  
5 materials required by a curriculum program, private  
6 school, private online learning program, or a public  
7 school, or any parent directed curriculum associated  
8 with K–12 education;

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

14 “(7) educational software and applications;

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

17 “(9) fees for nationally standardized assessment  
18 exams, advanced placement exams, any exams re-  
19 lated to college or university admission, or tuition or  
20 fees for preparatory courses for such exams;

21 “(10) fees for summer education programs and  
22 specialized after-school education programs (but not  
23 including after-school childcare);

1           “(11) educational services and therapies, in-  
2           cluding occupational, behavioral, physical, speech-  
3           language, and audiology therapies;

4           “(12) fees for transportation paid to a fee-for-  
5           service transportation provider for the student to  
6           travel to and from the facilities of a qualified edu-  
7           cational service provider;

8           “(13) costs of attendance at an institution of  
9           higher education;

10          “(14) costs associated with an apprenticeship or  
11          other vocational training program;

12          “(15) fees for state-recognized industry certifi-  
13          cation exams, and tuition or fees for preparatory  
14          courses for such exams;

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

20          “(17) any other educational expenses approved  
21          by the Secretary.

22          “(f) REQUIREMENTS FOR QUALIFIED EDUCATIONAL  
23          SERVICE PROVIDERS.—

24                 “(1) REGISTRATION AND APPROVAL.—The Sec-  
25                 retary shall establish and maintain a registry of

1 qualified educational service providers that are ap-  
2 proved to receive payments from a Military Edu-  
3 cation Savings Account. The Secretary shall approve  
4 a qualified educational service provider to receive  
5 such payments if the provider demonstrates to the  
6 Secretary that it is licensed in the State in which it  
7 operates to provide one or more of the services for  
8 which funds may be expended under subsection (e).

9 “(2) PARTICIPATION IN ONLINE MARKET-  
10 PLACE.—As a condition of receiving funds from a  
11 Military Education Savings Account, a qualified edu-  
12 cational service provider shall make its services  
13 available for purchase through the online market-  
14 place described in subsection (g).

15 “(3) SURETY BOND.—

16 “(A) IN GENERAL.—The Secretary shall  
17 require each qualified educational service pro-  
18 vider that receives \$100,000 or more in funds  
19 from Military Education Savings Accounts in a  
20 school year to post a surety bond, in an amount  
21 determined by the Secretary, for such school  
22 year.

23 “(B) RETENTION.—The Secretary shall  
24 prescribe the circumstances under which a sur-

1           ety bond under subparagraph (A) may be re-  
2           tained by the Secretary.

3           “(g) ONLINE MARKETPLACE.—

4           “(1) IN GENERAL.—The Secretary shall seek to  
5           enter into a contract with a private-sector entity  
6           under which the entity shall—

7                   “(A) establish and operate an online mar-  
8                   ketplace that enables the holder of a Military  
9                   Education Savings Account to make direct pur-  
10                  chases from qualified educational service pro-  
11                  viders using funds from such account;

12                  “(B) ensure that each qualified educational  
13                  service provider on the registry maintained by  
14                  the Secretary under subsection (f)(1) has made  
15                  its services available for purchase through the  
16                  online marketplace;

17                  “(C) ensure that all purchases made  
18                  through the online marketplace are for services  
19                  that are allowable uses of funds under sub-  
20                  section (e); and

21                  “(D) develop and make available a stand-  
22                  ardized expense report form, in electronic and  
23                  hard copy formats, to be used by parents for re-  
24                  porting expenses in accordance with subsection  
25                  (h)(3).

1           “(2) RULE OF CONSTRUCTION.—Nothing in  
2 this subsection shall be construed to require the  
3 holder of a Military Education Savings Account to  
4 make purchases using the online marketplace de-  
5 scribed in paragraph (1).

6           “(h) TRANSFER SCHEDULE.—

7           “(1) IN GENERAL.—Subject to paragraph (2),  
8 the Secretary shall make quarterly transfers of the  
9 amount calculated pursuant to subsection (d) for de-  
10 posit into the account of each qualified student, ex-  
11 cept that the Secretary may make transfers accord-  
12 ing to another transfer schedule if the Secretary de-  
13 termines that a transfer schedule other than quar-  
14 terly transfers is necessary for the operation of the  
15 education savings account.

16           “(2) CHOICE OF SCHEDULE.—The Secretary  
17 shall establish a process under which the parent of  
18 a child on whose behalf a Military Education Sav-  
19 ings Account is established may choose a transfer  
20 schedule other than a transfer schedule determined  
21 under paragraph (1).

22           “(3) EXPENSE REPORTS.—

23           “(A) SUBMISSION REQUIRED.—Before re-  
24 ceiving a transfer under paragraph (1) or (2),  
25 the parent of a student on whose behalf a Mili-

1            tary Education Savings Account is established  
2            shall submit to the Secretary an expense report  
3            demonstrating how funds from the most recent  
4            transfer were expended.

5            “(B) **FORMAT.**—Each such expense report  
6            shall be submitted using the standardized ex-  
7            pense report form developed under subsection  
8            (g)(1)(D).

9            “(i) **ROLLOVER.**—Amounts remaining in the Military  
10          Education Savings Account of a student at the end of a  
11          school year shall remain available for use in accordance  
12          with subsection (e) until the date on which such account  
13          terminates under subsection (j).

14          “(j) **TERMINATION AND RETURN OF FUNDS.**—

15                  “(1) **TERMINATION.**—The Military Education  
16          Savings Account of a student shall terminate on—

17                          “(A) the date on which the student enrolls  
18                          in a public elementary school or secondary  
19                          school on a full-time basis;

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

22    “(i) the date on which the student  
23    completes postsecondary education; or

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

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

4           “(D) in the case of an individual not de-  
5           scribed in subparagraphs (B) or (C), the earlier  
6           of—

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

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

12           “(2) RETURN OF FUNDS.—Any funds remain-  
13           ing in a Military Education Savings Account on the  
14           date such account terminates under paragraph (1)  
15           shall be returned to the Treasury of the United  
16           States and shall be used to carry out the program  
17           under this section.

18           “(k) COMPULSORY ATTENDANCE REQUIREMENTS.—  
19           A State that receives funds under this title shall consider  
20           a child with a Military Education Savings Account for a  
21           school year as meeting the State’s compulsory school at-  
22           tendance requirements for such school year.

23           “(l) SPECIAL RULE.—In the case of a child with a  
24           Military Education Savings Account who attends a public  
25           school on a less than full-time basis in a school year—

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

3           “(2) funds in the account, in an amount deter-  
4 mined pursuant to an agreement between the parent  
5 of the child and the local educational agency con-  
6 cerned, shall be used to pay for the child’s costs of  
7 attendance at such school.

8           “(m) TAX TREATMENT OF ACCOUNTS.—

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

12           “(2) CONTRIBUTIONS AND DISTRIBUTIONS.—  
13 For purposes of such subtitle—

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

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

1       “(n) 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       “(o) CONTRACT AUTHORITY.—The Secretary may  
9 enter into one or more contracts for the purpose of car-  
10 rying out the responsibilities of the Secretary under this  
11 section.

12       “(p) REFUNDS.—The Secretary shall establish a  
13 process under which payments from a Military Education  
14 Savings Accounts to a qualified educational service pro-  
15 vider shall be refunded to the account in the event of fraud  
16 or nonperformance by the provider.

17       “(q) RULES OF CONSTRUCTION.—

18               “(1) NONAGENCY.—A qualified educational  
19 service provider that receives a payment from a Mili-  
20 tary Education Savings Account pursuant to this  
21 section shall not be considered an agent of the State  
22 or the Federal Government solely because the pro-  
23 vider received such payment.

24               “(2) FEDERAL OR STATE SUPERVISION.—Noth-  
25 ing in this section shall be construed to allow any

1 agency of a State or the Federal Government to ex-  
2 ercise control or supervision over any qualified edu-  
3 cational service provider.

4 “(3) IMPOSITION OF ADDITIONAL REQUIRE-  
5 MENTS.—No Federal requirements shall apply to a  
6 qualified educational service provider other than the  
7 requirements specifically set forth in this section.  
8 Nothing in this section shall be construed to require  
9 a qualified educational service provider to alter its  
10 creed, practices, admissions policy, or curriculum in  
11 order to be eligible to receive payments from a Mili-  
12 tary Education Savings Account.

13 “(4) TREATMENT OF ASSISTANCE.—For pur-  
14 poses of any Federal law, assistance provided under  
15 this section shall be considered assistance to the  
16 military dependent student or to the parents of a  
17 student on whose behalf a Military Education Sav-  
18 ings Account is established and shall not be consid-  
19 ered assistance to the qualified educational service  
20 provider that uses or receives funds from a Military  
21 Education Savings Account.

22 “(r) LEGAL PROCEEDINGS.—

23 “(1) BURDEN.—In any legal proceeding in  
24 which a qualified educational service provider chal-  
25 lenges a requirement imposed by the Department of

1 Education on the provider, the Department shall  
2 have the burden of establishing that the requirement  
3 is necessary and does not impose any undue burden  
4 on the provider.

5 “(2) LIMITATION ON LIABILITY.—

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

11 “(B) ENTITY DESCRIBED.—The entities  
12 described in this subparagraph are the fol-  
13 lowing:

14 “(i) The Department of Education.

15 “(ii) An entity that enters into a con-  
16 tract with the Secretary pursuant to sub-  
17 section (g) or subsection (o).

18 “(iii) A qualified educational service  
19 provider.

20 “(3) INTERVENTION.—

21 “(A) IN GENERAL.—Except as provided in  
22 subparagraph (B), a parent of an eligible mili-  
23 tary dependent student or a parent of a student  
24 on whose behalf a Military Education Savings  
25 Account is established may intervene in any

1 legal proceeding in which the constitutionality  
2 of the program under this section is challenged  
3 under a State constitution or the Federal con-  
4 stitution.

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

7 “(i) limit the number of parents al-  
8 lowed to intervene in a proceeding under  
9 subparagraph (A); or

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

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

20 “(t) DEFINITIONS.—In this section:

21 “(1) The terms ‘commissioned officer’, ‘enlisted  
22 member’, and ‘warrant officer’ have the meanings  
23 given those terms in section 101(b) of title 10,  
24 United States Code.

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

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

9           “(B) in the case of a child seeking to es-  
10 tablish a Military Education Savings account  
11 for the first time, was enrolled in a public ele-  
12 mentary school or a public secondary school for  
13 not less than 100 consecutive days in the pre-  
14 ceding school year.

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

18           “(4) The term ‘qualified educational service  
19 provider’ means an entity or person that is licensed  
20 by a State to provide one or more of the educational  
21 services for which funds may be expended under  
22 subsection (e), including—

23           “(A) a private school;

24           “(B) a non-public online learning program  
25 or course provider;

1           “(C) a State institution of higher edu-  
2           cation, which may include a community college  
3           or a technical college;

4           “(D) a public school;

5           “(E) a private tutor or entity that operates  
6           a tutoring facility;

7           “(F) a provider of educational materials or  
8           curriculum;

9           “(G) a provider of education-related thera-  
10          pies or services; or

11          “(H) any other provider of educational  
12          services licensed by a State to provide such  
13          services.”.

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

15          Section 7014 of the Elementary and Secondary Edu-  
16          cation Act of 1965 is amended by adding at the end the  
17          following:

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

19          For the purpose of carrying out section 7012A—

20                 “(1) there are authorized to be appropriated  
21                 \$1,200,000,000 for fiscal year 2020; and

22                 “(2) for each fiscal year beginning after fiscal  
23                 year 2020, the amount authorized to be appro-  
24                 priated shall be the amount authorized to be appro-  
25                 priated for the previous fiscal year increased by the

1 percentage increase in the Chained Consumer Price  
2 Index for All Urban Consumers (as published by the  
3 Bureau of Labor Statistics of the Department of  
4 Labor) over the period of such previous fiscal year.”.

○