

115TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To expand opportunity for Native American children through additional options in education, and for other purposes.

---

IN THE SENATE OF THE UNITED STATES

---

Mr. MCCAIN (for himself and Mr. LANKFORD) introduced the following bill; which was read twice and referred to the Committee on

---



---

**A BILL**

To expand opportunity for Native American children through additional options in education, 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 “Native American Edu-  
5 cation Opportunity Act”.

6 **SEC. 2. NATIVE AMERICAN EDUCATION OPPORTUNITY PRO-**  
7 **GRAM.**

8        (a) IN GENERAL.—Part B of title XI of the Edu-  
9 cation Amendments of 1978 (25 U.S.C. 2000 et seq.) is  
10 amended—

1           (1) by redesignating section 1141 as section  
2           1142; and

3           (2) by inserting after section 1140 the fol-  
4           lowing:

5   **“SEC. 1141. BUREAU FUNDING OF TRIBAL-BASED EDU-**  
6           **CATION SAVINGS ACCOUNT PROGRAMS.**

7           “(a) PROGRAM AUTHORIZED.—

8           “(1) BUREAU DISBURSEMENTS.—At the re-  
9           quest of Tribes, the Secretary of the Interior shall,  
10          for the 2018–2019 school year and each subsequent  
11          school year, disburse not more than 90 percent of  
12          the amounts made available under sections 1127 and  
13          1130 for the school year to such Tribes that admin-  
14          ister education savings account programs to enable  
15          the Tribes to award grants to education savings ac-  
16          counts for ESA eligible students for such school  
17          year, in accordance with subsection (b).

18          “(2) APPLICABILITY.—This section shall apply  
19          with respect to ESA eligible students who have sub-  
20          mitted their application for participation under this  
21          section to the Tribe of which the student is an en-  
22          rolled member on or after January 1, 2018.

23          “(3) ACCOUNT ADMINISTRATION.—

24                 “(A) IN GENERAL.—A Tribe may enter  
25                 into an agreement with a nonprofit entity for

1 the administration of the accounts created  
2 through the Tribe's education savings account  
3 program.

4 “(B) NONPROFIT ENTITY DEFINED.—In  
5 this paragraph, the term ‘nonprofit entity’  
6 means an entity that is described in section  
7 501(c)(3) of the Internal Revenue Code of 1986  
8 and is exempt from taxation under section  
9 501(a) of such Code.

10 “(4) USE OF FUNDS.—Funds disbursed to a  
11 Tribe under this section may be used for—

12 “(A) private school tuition and fees;

13 “(B) textbooks, curriculum, and instruc-  
14 tional materials;

15 “(C) academic, Native language, or cul-  
16 tural tutoring;

17 “(D) educational services and therapies for  
18 students with special needs;

19 “(E) tuition and fees for a non-public on-  
20 line learning program;

21 “(F) educational technology;

22 “(G) examination fees; or

23 “(H) transportation to and from a school  
24 not to exceed \$2,000 per year, per ESA eligible  
25 student.

1 “(b) DISBURSEMENTS.—

2 “(1) AMOUNT.—The amount disbursed by the  
3 Secretary of the Interior under subsection (a) to a  
4 Tribe shall be, with respect to each ESA eligible stu-  
5 dent for which the Tribe awards a grant under this  
6 section for a school year, the lesser of—

7 “(A) the amount of the grant provided by  
8 the Tribe to the education savings account of  
9 the ESA eligible student for the applicable  
10 school year; and

11 “(B) 90 percent of the amount that the  
12 Secretary would provide to a Bureau-funded  
13 school on behalf of such student for the applica-  
14 ble school year under sections 1127 and 1130.

15 “(2) QUARTERLY DISBURSEMENTS.—A Tribe  
16 that receives a disbursement amount under sub-  
17 section (a) shall make quarterly grant distributions  
18 of such amount to education savings accounts for  
19 ESA eligible students.

20 “(3) LIMITATION.—A Tribe shall allocate not  
21 more than 15 percent of the amount received per  
22 pupil under this section to the administration of the  
23 education savings account programs of the Tribe.

24 “(4) ROLL OVER AND REMAINING FUNDS IN AN  
25 ACCOUNT.—Not more than 50 percent of an ESA el-

1 eligible student's total grant amount for a school year  
2 made under this section may roll over for use to the  
3 following school year.

4 “(c) EFFECT ON ALLOTMENTS.—For purposes of  
5 any calculation regarding the total number of eligible In-  
6 dian students under section 1127, the Secretary shall in-  
7 clude all ESA eligible students who participate in an edu-  
8 cation savings account program under this section.

9 “(d) RULE OF CONSTRUCTION.—A grant awarded to  
10 an ESA eligible student under this section shall be consid-  
11 ered assistance to the student and shall not be considered  
12 assistance to a school that enrolls the ESA eligible student  
13 or any other educational service provider from which the  
14 ESA eligible student receives services.

15 “(e) DEFINITIONS.—In this section:

16 “(1) ESA ELIGIBLE STUDENT.—

17 “(A) IN GENERAL.—The term ‘ESA eligi-  
18 ble student’ means an individual who—

19 “(i) is—

20 “(I) an elementary school or sec-  
21 ondary school student who attended a  
22 Bureau-funded school in the semester  
23 preceding the date on which the stu-  
24 dent first applies for participation in

1 an education savings account pro-  
2 gram; or

3 “(II) a child who will be eligible  
4 to attend a Bureau-funded school for  
5 kindergarten or any other elementary  
6 school grade in the next semester that  
7 will start after the date on which the  
8 student first applies for participation  
9 in an education savings account pro-  
10 gram;

11 “(ii) will not be attending a Bureau-  
12 funded school, receiving an education sav-  
13 ings account from another Tribe, or at-  
14 tending a public elementary school or sec-  
15 ondary school, while the student is partici-  
16 pating in an education savings account  
17 program of a Tribe; and

18 “(iii) meets any eligibility require-  
19 ments of the education savings account  
20 program of the Tribe in which the student  
21 applies to participate.

22 “(B) PERIOD OF ELIGIBILITY.—A student  
23 who meets the requirements of clauses (i) [and  
24 (iii)?] of subparagraph (A) for a school year and  
25 who was an enrolled member of the Tribe to

1           which the student submitted an application for  
2           participation in the education savings account  
3           program of the Tribe at the time of submitting  
4           the application to the Tribe shall be deemed to  
5           meet the requirements of such clause[s?] until  
6           the date on which the student graduates high  
7           school or reaches the age of 21 years, whichever  
8           occurs first.

9           “(2) EDUCATION SAVINGS ACCOUNT PRO-  
10          GRAM.—The term ‘education savings account pro-  
11          gram’ means a program administered by a Tribe in  
12          which the Tribe awards a grant to an account con-  
13          trolled by a parent of an elementary school or sec-  
14          ondary school student from which the parent may  
15          purchase goods and services needed for the edu-  
16          cation of the student.

17          “(3) PARENT.—The term ‘parent’ means a par-  
18          ent, guardian, custodian, or other person with the  
19          authority to act on behalf of an ESA eligible stu-  
20          dent.

21          “(4) TRIBE.—The term ‘Tribe’ means any rec-  
22          ognized Indian tribe included on the current list  
23          published by the Secretary of the Interior under sec-  
24          tion 104 of the Federally Recognized Indian Tribe  
25          Act of 1994 (25 U.S.C. 5131).”.

1           (b) CONFORMING AMENDMENT.—Section 1126(c) of  
2 the Education Amendments of 1978 (25 U.S.C. 2006(e))  
3 is amended by striking “section 1141(12)” and inserting  
4 “section 1142(12)”.

5           (c) GAO STUDY.—Not later than 3 years after the  
6 date of enactment of this Act, the Comptroller General  
7 of the United States shall—

8                   (1) conduct a review of the implementation of  
9 the amendments made by this Act during the pre-  
10 ceding 3-year period, including any factors impact-  
11 ing increased participation in education savings ac-  
12 count programs established pursuant to the amend-  
13 ments made by this Act;

14                   (2) submit a report describing the results of the  
15 review under paragraph (1) to—

16                           (A) the Committee on Indian Affairs of the  
17 Senate; and

18                           (B) the Subcommittee on Indian, Insular  
19 and Alaska Native Affairs of the Committee on  
20 Natural Resources of the House of Representa-  
21 tives; and

22                   (3) publish the report under paragraph (2).