To expand school choice in the District of Columbia.

IN THE SENATE OF THE UNITED STATES

Mr. Cruz introduced the following bill; which was read twice and referred to the Committee on __________________

A BILL

To expand school choice in the District of Columbia.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Educational Freedom Accounts Act”.

4 SEC. 2. DEFINITIONS.

5 In this Act:

6 (1) ADMINISTERING ENTITY.—The term “administering entity” means the entity that receives the contract under section 3(a) for a fiscal year.
(2) CHIEF FINANCIAL OFFICER.—The term “chief financial officer” means the Chief Financial Officer of the District of Columbia.

(3) ELIGIBLE CHILD.—The term “eligible child” means a child—

(A) who is a resident of the District of Columbia;

(B) who is eligible to receive a free public education in the District of Columbia;

(C) who—

(i) was enrolled in a public school or preschool program of the District of Columbia, including a charter school, during the previous school year; or

(ii) is entering prekindergarten or kindergarten;

(D) whose parent chooses to not enroll the child in a public elementary school, secondary school, or prekindergarten program for the school year for which the child will receive a scholarship under section 4; and

(E) whose parent does not submit a notification of home schooling described in section 5202 of title 5, Code of the District of Columbia Regulations (or any successor notification)
to the Office of the State Superintendent of Education of the District of Columbia for any year for which the parent enters into an agreement under section 4(a)(2)(B).

(4) **Institution of Higher Education.**—The term “institution of higher education” has the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

(5) **Parent.**—The term “parent” means the guardian, custodian, or other person with the authority to act on behalf of a child.

(6) **Participating Provider.**—The term “participating provider” means an entity that—

(A) is—

(i) a nonpublic school located in the District of Columbia that provides education to prekindergarten, elementary school, or secondary school students;

(ii) a public school, including a charter school, located in the District of Columbia, except only with respect to providing individual courses or extracurricular activities described in section 4(c)(1)(E) or transportation described in section 4(c)(1)(H) to such services;
(iii) a tutor or tutoring facility;
(iv) a nonpublic provider of distance learning;
(v) a therapy center or other provider of special education or disability services;
(vi) an institution of higher education located in the District of Columbia; or
(vii) an entity that provides educational services or products;

(B) notifies the administering entity of the entity’s intent to become a participating provider; and

(C) agrees, as a condition of receiving funds from an education savings account established under section 4, to comply with the requirements of this Act.

SEC. 3. CONTRACT AUTHORIZED.

(a) In General.—Beginning with the 2017–2018 school year, the Chief Financial Officer shall carry out this Act for each school year by awarding a contract to 1 entity described in subsection (b) to enable the administering entity to carry out the program under section 4 for all eligible children in the District of Columbia.

(b) Eligibility.—In order to be eligible for a contract under this section, an entity shall be—
(1) exempt from Federal income tax pursuant to 501(c)(3) of the Internal Revenue Code of 1986;
(2) based within the District of Columbia; and
(3) able to demonstrate an ability to meet all requirements of this Act.
(c) Application.—An eligible entity desiring a contract under this section shall submit an application to the Chief Financial Officer at such time, in such manner, and containing such information as the Chief Financial Officer may require.
(d) Administrative Expenses.—From the amounts made available under the contract described in subsection (a), the administering entity may reserve an amount that is not greater than the sum of 5 percent of the funds allocated under section 4(a)(4) for each eligible child with an education savings account, to be used by the administering entity for the administrative expenses associated with the program under this Act.
SEC. 4. UNIVERSAL EDUCATIONAL CHOICE FOR DISTRICT OF COLUMBIA STUDENTS.
(a) Basic Elements of Parental Choice in Education.—
(1) Educational choice.—Except as provided in paragraph (6), the parent of any eligible child may enter into an agreement under paragraph
(2)(B) with the administering entity for any year during which the eligible child will be in a grade for which the District of Columbia provides free public education.

(2) Provision of Education Savings Accounts.—

(A) In General.—Beginning for the 2017–2018 school year, the administering entity shall provide, to each eligible child whose parent enters into or renews an agreement described in subparagraph (B) with the administering entity for the school year, an education savings account described in paragraph (3), into which scholarship amounts for the year shall be deposited in accordance with paragraph (4).

(B) Agreement.—The agreement required under this subparagraph shall be in a manner and on a form determined by the administering entity and shall provide that—

(i) the eligible child will receive an education savings account described in paragraph (3) and the administering entity will deposit a scholarship into the account
for each year that the agreement is in effect, in accordance with paragraph (4);

(ii) the eligible child may be educated pursuant to any of the methods described in subparagraphs (A) through (G) of subsection (c)(1);

(iii) the parent shall direct the use of the funds provided in the education savings account for educational expenses described in subsection (e), and the administering entity shall distribute such funds in accordance with paragraph (3)(B); and

(iv) the parent agrees to the terms and conditions of the education savings account, including any participation necessary for the accountability activities required under subsection (d)(3).

(3) EDUCATION SAVINGS ACCOUNT.—An education savings account described in this paragraph means a parent-controlled account, established exclusively for the purpose of paying for the educational expenses described in subsection (c) for an eligible child who is the designated beneficiary of the account, that meets the following requirements:
(A) No funds shall be deposited into the account unless the funds are—

(i) a disbursement of an annual scholarship from the administering entity as provided under paragraph (2)(A); or

(ii) a deposit of opportunity scholarship funds, in accordance with section 3007(a)(2) of the Scholarships for Opportunity and Results Act (D.C. Code, sec. 38–1853.07(a)(2)).

(B) The funds in the account shall be distributed by the administering entity on behalf of the eligible child to 1 or more participating providers, upon direction by the parent, at the appropriate time.

(C) Except as provided in subparagraph (D), any amount in the account that is attributable to a deposit provided under paragraph (2)(A) or a deposit of any opportunity scholarship funds awarded under section 3007 of the Scholarships for Opportunity and Results Act (D.C. Code, sec. 38–1853.07) may be paid or distributed out of the account only for the purpose of paying education expenses described in subsection (e) for the eligible child.
(D) Any balance remaining in the account shall be returned to the Chief Financial Officer on the last day of the period covered by an agreement described in paragraph (2)(B) if—

(i) such agreement is broken or ended by the parent during the agreement period;

(ii) the parent of the eligible child does not renew the agreement for the eligible child for the immediately succeeding academic year;

(iii) during the most recent year of the agreement, the parents do not use any funds in the account for eligible expenses described in subsection (c); or

(iv) the child no longer qualifies as an eligible child.

(4) Amount of Scholarship and Transfer of Funds.—

(A) Transfer of Funds.—By not later than August 1 of each school year—

(i) the administering entity shall notify the Chief Financial Officer of the total amount calculated under subparagraph (B) to be provided under this Act for scholar-
ships to eligible children for such school year; and

(ii) the Chief Financial Officer shall transfer such amount, from any funds or revenues available to the District of Columbia, to the administering entity to enable the administering entity to pay for the scholarships and the administration expenses for the full fiscal year, in accordance with subparagraphs (B) and (D) and section 3(d).

(B) AMOUNT.—The total amount provided under this section for a full-year scholarship on behalf of an eligible child shall equal—

(i) in the case of an eligible child from a family with an income of not more than 185 percent of the poverty level described in subparagraph (C) or an eligible child who is a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401), 90 percent of the funds that would otherwise be allocated by the District of Columbia Public Schools for such child, as determined by the uniform per student funding
formula defined in the District of Columbia School Reform Act of 1995 (D.C. Code, sec. 38–804.01);

(ii) in the case of an eligible child from a family with an income of more than 185 percent, and not more than 300 percent, of such poverty level, 85 percent of the funds that would otherwise be allocated by the District of Columbia Public Schools for such child as determined by such uniform per student funding formula; and

(iii) in the case of an eligible child from a family with an income that equals or exceeds 300 percent of such poverty level, 80 percent of the funds that would otherwise be allocated by the District of Columbia Public Schools for such child as determined by such uniform per student funding formula.

(C) CALCULATION OF POVERTY LEVEL.—

In determining the poverty level for purposes of this paragraph, the administering entity shall use the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census, as the criteria have been up-

(D) QUARTERLY DISBURSEMENT.—The administering entity shall distribute the amount of a scholarship provided under this section to an eligible child whose parent has entered into an agreement under paragraph (2)(B) into the eligible child’s education savings account through 4 equal quarterly deposits.

(5) OWNERSHIP OF THE EDUCATION SAVINGS ACCOUNT.—An education savings account established for an eligible child under this Act, and any funds deposited within the education savings account, shall belong to the eligible child. Funds available in the education savings account shall be used as directed by a parent of the eligible child, on behalf of the child, for education expenses described in subsection (c).

(6) INTERACTION WITH OPPORTUNITY SCHOLARSHIPS.—Notwithstanding paragraph (2)(A) or any other provision of this Act, a child who receives an opportunity scholarship under section 3007 of the Scholarships for Opportunity and Results Act (D.C. Code, sec. 38–1853.07) for a school year shall not
be eligible for a scholarship under this Act for the same school year. Upon the request of any parent of an eligible child who receives an opportunity scholarship and the completion of an agreement described in paragraph (2)(B), the Secretary shall establish an education savings account described in paragraph (3) for the child, in order for the parent to deposit any amount of an opportunity scholarship under section 3007 of the Scholarships for Opportunity and Results Act (D.C. Code, sec. 38–1853.07) into the education savings account.

(b) CONTINUED AVAILABILITY OF FUNDS.—Any balance in an educational savings account established for an eligible child under this section that is not used during an academic year shall remain available in the education savings account of the eligible child for future education expenses described in subsection (c), as long as an agreement described in subsection (a)(2)(B) remains in effect for the eligible child.

(c) ELIGIBLE EDUCATION EXPENSES.—

(1) IN GENERAL.—Funds available in an education savings account established under this section for an eligible child shall only be used on behalf of such child for 1 or more of the following educational purposes:
(A) The costs of tuition and fees at a non-public school, or distance education, provided through a participating provider.

(B) Tutoring services offered by a participating provider.

(C) The costs of curricula or online courses, including any supplemental materials, textbooks, or supplies necessary to administer the curriculum or to complete the course, offered by a participating provider or purchased for self-study.

(D) Fees for any special education or related services provided through a participating provider.

(E) The costs of tuition and fees required to complete individual courses or extracurricular activities at a public school, including a charter school, within the District of Columbia.

(F) The costs of tuition and fees required to complete any dual credit courses, which are courses that qualify for both secondary and postsecondary education credit, from a participating provider in the District of Columbia.

(G) Fees for any—
(i) national norm-referenced achievement examination;

(ii) advanced placement or similar examination; or

(iii) standardized examination required for admission to an institution of higher education.

(H) Transportation required for the eligible child to travel to and from a participating provider, except that not more than $2,000 per year from the education savings account may be used for this purpose.

(I) A contribution to a qualified tuition program (as defined in section 529(b) of the Internal Revenue Code of 1986) with respect to which the eligible child is a designated beneficiary or a contribution to a Coverdell education savings account (as defined in section 530(b) of such Code) with respect to which the eligible child is a designated beneficiary, except that not more than a total of $2,000 per year may be used for contributions under this subparagraph.

(J) Any other education expenses approved by the administering entity.
(2) Rule of Construction.—Nothing in this subsection shall be construed to require an eligible child to attend a nonpublic school or a program of distance education described in paragraph (1)(A) in order to receive an academic scholarship under this section to be used for other eligible education expenses described in paragraph (1).

(d) Governmental and Administering Entity Responsibilities.—

(1) No Extension of Regulatory Authority.—The creation of the program under this Act does not expand the regulatory authority of the Mayor of the District of Columbia, the officers of the District of Columbia Public Schools, or the Federal Government to impose any additional regulations on nonpublic schools beyond the regulations necessary to enforce the requirements of this Act.

(2) Annual List of Participating Providers.—

(A) Creation of List.—Beginning in academic year 2016–2017, and each year thereafter, the administering entity shall ensure that all eligible children, and their parents, are informed of the schools participating in the pro-
gram under this Act for the next academic year by providing to the Chief Financial Officer, and making publicly available, a list of participating providers each school year.

(B) INCLUSION ON CFO’S WEBSITE.—The Chief Financial Officer shall ensure that the annual list of participating providers prepared by the administering entity under subparagraph (A) is made publicly available on the website of the Chief Financial Officer.

(3) ACCOUNTABILITY.—The administering entity and the Chief Financial Officer shall take such steps as are necessary to ensure the proper implementation of this Act, including—

(A) conducting periodic audits of education savings accounts established under this section;

(B) ensuring that the funds disbursed from education savings accounts are used appropriately and in accordance with this Act;

(C) freezing or revoking the education savings account of an eligible child if fraud is detected; and

(D) if appropriate, referring parents or participating providers found to be using edu-
cation savings account funds for unlawful purposes for criminal prosecution.

(4) EXCHANGE OF RECORDS.—Upon request by the administering entity, the District of Columbia Public Schools shall provide, to any participating provider that is a school and that has admitted an eligible child who previously attended a public school, a complete copy of the child’s school records, following the standard procedures established by the administering entity for purposes of the program under this Act.

(e) PARTICIPATING PROVIDER REQUIREMENTS AND RIGHTS.—

(1) REFUND AND REBATE LIMITATIONS.—

(A) GENERAL PROHIBITION.—A participating provider that receives scholarship funds provided under this Act for an eligible child shall not—

(i) refund or provide a rebate, of all or any portion of such funds, to the eligible child or a parent of the eligible child; and

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

(B) REFUND PROCEDURES.—Any refund that is needed for an item that is being re-
turned or an item or service that has not been
provided shall be provided to the administering
entity and deposited into the education savings
account from which the money refunded was
originally paid.

(2) ADMISSIONS.—A participating provider may
enforce the admission requirements of the school or
program offered by the provider and may accept the
students best qualified to attend the school, except
that a participating school may not discriminate on
the basis of race, color, national origin, or sex, in ac-
cordance with subsection (f).

(3) TRANSFER OF DOCUMENTS.—Each partici-
pating provider that is a school shall agree, as a con-
dition of participation in the program under this
Act, to provide the complete academic records of an
eligible child attending the school who receives an
education savings account under this Act to any
other nonpublic school or public school to which the
child transfers.

(f) NONDISCRIMINATION AND OTHER PROVISIONS.—

(1) IN GENERAL.—A participating provider
shall not discriminate against program participants
or applicants on the basis of race, color, national ori-
gin, or sex.
(2) APPLICABILITY AND SINGLE SEX SCHOOLS, CLASSES, OR ACTIVITIES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the prohibition of sex discrimination in paragraph (1) shall not apply to a participating provider that is operated by, supervised by, controlled by, or connected to a religious organization to the extent that the application of such paragraph is inconsistent with the religious tenets or beliefs of the participating provider.

(B) SINGLE SEX SCHOOLS, CLASSES, OR ACTIVITIES.—Notwithstanding paragraph (1) or any other provision of law, a parent may choose and a participating provider may offer a single sex school, class, or activity.

(3) RELIGIOUSLY AFFILIATED PARTICIPATING PROVIDERS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a participating provider that is operated by, supervised by, controlled by, or connected to a religious organization may exercise its right in matters of employment consistent with title VII of the Civil Rights Act of
1964 (42 U.S.C. 2000e et seq.), including the exemptions in such title.

(B) MAINTENANCE OF PURPOSE.—Notwithstanding any other provision of law, funds made available through education savings accounts established under this section to eligible children, which are used for a participating provider as a result of the choice of the parents of such children, shall not, consistent with the first amendment of the Constitution of the United States—

(i) necessitate any change in the participating provider’s teaching mission;

(ii) require any participating provider to remove religious art, icons, scriptures, or other symbols; or

(iii) preclude any participating provider from retaining religious terms in its name, selecting its board members on a religious basis, or including religious references in its mission statements and other chartering or governing documents.

(4) RULES OF CONSTRUCTION.—

(A) TREATMENT OF ASSISTANCE.—For purposes of any Federal law, assistance pro-
vided under this section shall be considered assistance to the child and shall not be considered assistance to the participating provider that enrolls the child in a school or program. The amount of any scholarship under this section shall not be treated as income of the child or the parents of the child for purposes of Federal tax laws or for determining eligibility for any other Federal program.

(B) NO ABILITY TO CONTROL THE CURRICULUM.—Nothing in this section shall be construed to authorize any officer or employee of the Federal Government, through grants, contracts, or other cooperative agreements, to mandate, direct, or control the curriculum, program of instruction, instructional content, specific academic standards, assessments, or allocation of resources, of the District of Columbia or of any school in the District of Columbia.

(g) TRANSITION.—The Chief Financial Officer and the administering entity shall take steps to ensure a smooth transition to the program under this Act, in order to ensure that academic scholarships and education savings accounts under this section are available to eligible children attending nonpublic schools through participating
providers beginning for the 2017–2018 school year. The Chief Financial Officer shall allow nonpublic schools to become participating providers beginning on September 1, 2016.

(h) CONFORMING AMENDMENT.—Section 3007(a)(2) of the Scholarships for Opportunity and Results Act (D.C. Code, sec. 38–1853.07(a)(2)) is amended by adding before the period at the end the following: “, or deposited in an education savings account established under section 4 of the Educational Freedom Accounts Act to be used for education expenses described in subsection (e) of such section.”.