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(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To clarify the Department of State's exclusive regulatory authority over
the au pair cultural exchange program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. RESCHENTHALER introduced the following bill; which was referred to the
Committee on _____

A BILL

To clarify the Department of State's exclusive regulatory
authority over the au pair cultural exchange program,
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 "Modernize the Au Pair
5 Program Act of 2024".

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) Congress authorized in the Mutual Edu-
2 cational and Cultural Exchange Act of 1961, (22
3 U.S.C. 2451 et. seq. (known as the “Fulbright-Hays
4 Act”)) the creation of international educational and
5 cultural exchange programs pursued through pri-
6 vate-public partnerships between the Federal agency
7 responsible for foreign affairs (initially the United
8 States Information Agency or “USIA”) and des-
9 ignated sponsoring organizations.

10 (2) In 1986, the USIA launched a pilot pro-
11 gram referred to as the Federal “au pair exchange
12 program”, whereby young foreign students would
13 travel to the United States to live with and provide
14 childcare to an American family, immerse themselves
15 in American culture, and pursue academic credits at
16 an accredited institution.

17 (3) In 1994, Congress amended the Eisenhower
18 Exchange Fellowship Act of 1990 (Public Law 103–
19 415, 108 Stat. 4299 (1994)) to clarify that the
20 USIA should continue to administer the Federal au
21 pair program consistent with foreign affairs pur-
22 poses of the Fulbright-Hays Act.

23 (4) The USIA exercised its regulatory authority
24 over the program to promulgate comprehensive regu-
25 lations that set requirements for the educational

1 component of the program, specified the eligibility
2 criteria for au pairs, and crafted a nationally uni-
3 form weekly stipend formula for host families to pro-
4 vide to their au pairs that was based on an assumed
5 number of weekly hours of childcare, indexed on the
6 Federal minimum wage, and reflected a 40 percent
7 credit for the provided room and board.

8 (5) In 1997, Congress authorized the Federal
9 au pair program on a permanent basis (Public Law
10 105–48, 111 Stat. 1165 (1997)).

11 (6) In 1999, the USIA disbanded and Congress
12 transferred regulatory authority for the au pair pro-
13 gram to the Department of State.

14 (7) The au pair program is an important public
15 diplomacy tool that furthers foreign policy objectives
16 of the United States.

17 (8) The au pair program provides a critical
18 source of affordable childcare for tens of thousands
19 of American families at a time when the lack of ac-
20 cess to such care costs the economy of the United
21 States an estimated \$122,000,000,000 annually in
22 lost earnings, productivity, and revenue.

23 (9) Studies have shown that over 10 percent of
24 au pair host families are active duty military per-
25 sonnel, and additionally the au pair program has be-

1 come an essential source of childcare for families of
2 first responders, single parents, and shift workers
3 and others with non-traditional work schedules.

4 (10) Any and all Federal regulations pertaining
5 to the au pair program must retain the national uni-
6 formity and affordability integral to allowing Amer-
7 ican working families to continue their participation
8 in the program.

9 (11) American families participating in the au
10 pair program must have clarity and confidence in
11 what laws and regulations are applicable to the pro-
12 gram.

13 (12) It is clear that, consistent with congress-
14 sional intent, the au pair program must be exclu-
15 sively regulated by Federal law to successfully serve
16 a foreign affairs purpose.

17 **SEC. 3. CLARIFICATION OF EXCLUSIVE FEDERAL REGU-**
18 **LATORY AUTHORITY.**

19 A State or political subdivision of a State may not
20 enact or enforce a law, regulation, or other provision hav-
21 ing the force or effect of law related to the au pair pro-
22 gram administered by the Department of State.

23 **SEC. 4. REVISED PROPOSED RULE ON AU PAIR PROGRAM.**

24 Not later than 90 days after the date of enactment
25 of this Act, the Secretary of State shall submit to the Di-

1 rector of the Office of Management and Budget a revised
2 version of the proposed rule entitled, “Exchange Visitor
3 Program—Au Pairs” (88 Fed. Reg. 74071; published Oc-
4 tober 30, 2023). The revision of the proposed rule shall—

5 (1) provide a uniform national modification to
6 the stipend provided by a host family to an au pair,
7 in a manner that does not make the program pro-
8 hibitively expensive for and reflects the room, board,
9 and other programmatic costs borne by a host fam-
10 ily; and

11 (2) maintain sufficient flexibility in the au pair
12 program which is crucial for military families, first
13 responders, shift workers, and other host families
14 with non-traditional work schedules; and

15 (3) promote the immersion of an au pair into
16 the family life of their host family, consistent with
17 the cultural exchange purposes of the au pair pro-
18 gram.