H. R. 3704

To have education funds follow the student.

IN THE HOUSE OF REPRESENTATIVES

JUNE 4, 2021

Mr. Good of Virginia (for himself, Mrs. Rodgers of Washington, Mr. Weber of Texas, Mrs. Miller of Illinois, Mr. DesJarlais, Mr. Cawthorn, Mr. Owens, Ms. Herrell, Mr. Budd, and Mr. Moore of Alabama) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and Labor, 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.

A BILL

To have education funds follow the student.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Children Have Opportunities in Classrooms Everywhere Act”.

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SEC. 2. FEDERAL FUNDING UNDER THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 TO FOLLOW THE STUDENT.

Title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801 et seq.) is amended by adding at the end the following:

“PART H—FUNDS TO FOLLOW THE STUDENT

“SEC. 8701. FUNDS TO FOLLOW THE STUDENT.

“(a) DEFINITIONS.—In this section:

“(1) 529 EDUCATION SAVINGS PLAN ACCOUNT.—The term ‘529 education savings plan account’ means a qualified tuition program (as defined in section 529(b)(1)(A) of the Internal Revenue Code of 1986).

“(2) ELIGIBLE CHILD.—The term ‘eligible child’ means a child who is from a household, the taxable income of which for the most recently completed taxable year is not more than 130 percent of an amount equal to the poverty level, as determined by using criteria of poverty established by the Bureau of the Census.

“(3) HOME SCHOOL.—The term ‘home school’ means a home school as defined by the laws of the State in which the eligible child resides.

“(b) FUNDS TO FOLLOW THE STUDENT.—
“(1) IN GENERAL.—Notwithstanding any other provision of law and to the extent permitted under State law, a State educational agency shall allocate grant funds provided under title I, subparts 2 and 3 of part B of title II, and titles III, IV, V, and VI, for the purposes of ensuring that funding under such titles follows children, to the public school the children attend or for the expenses described in section 529(e)(7) of the Internal Revenue Code of 1986.

“(2) PLAN.—

“(A) IN GENERAL.—Each State that carries out allocations described in paragraph (1) shall establish a plan that complies with the following:

“(i) The parent or guardian of each eligible child in the State who desires access to the funds described in paragraph (1) shall annually submit to the State educational agency by not later than April 30, a paper or electronic application form that includes the following:

“(I) The parent or guardian’s taxable income based on the Federal
tax return of the parent or guardian
for the prior tax year.

“(II) The eligible child’s date of
birth, place of residence, school dis-
trict, and school in which the eligible
child will be enrolled for the subse-
quent school year.

“(III) If the eligible child will be
enrolled in a private school or home
school for the subsequent school year,
confirmation that the eligible child
has a 529 education savings plan ac-
count, including the necessary details
of such account to enable the State to
deposit funds available under this sec-
tion into such account.

“(ii) Not later than May 14 of each
year, the State educational agency shall
submit to the Secretary the application
forms for all applicants under clause (i).

“(iii) Not later than July 1 of each
year and based on the information sub-
mitted under clause (i), the State edu-
cational agency shall—
“(I) if the eligible child will be enrolled in a private school or home school for the subsequent school year, deposit the amount equal to the concentration distribution and basic distribution applicable for the eligible child under subparagraphs (B) and (C) of subsection (c)(2), into the 529 education savings plan account of the eligible child; and

“(II) if the eligible child will be enrolled in a public school for the subsequent school year, distribute the amount equal to the concentration distribution and basic distribution applicable for the eligible child under subparagraphs (B) and (C) of subsection (c)(2), to such public school.

“(B) Data Collection.—Information collected under this section by the State shall be used for the sole purposes of calculating the allocation of funds and distribution of funds under this section.

“(C) Data Privacy Protection.—Information collected under this section shall be sub-

“(e) Calculation of Amounts To Be Distributed.—

“(1) In general.—From the amounts provided to carry out title I, subparts 2 and 3 of part B of title II, and titles III, IV, V, and VI, and based on the information submitted by State educational agencies under subsection (b)(2)(A)(ii), the Secretary shall—

“(A) determine the eligibility based on the information provided under subsection (b)(2)(A)(i) and verify that the child for whom the information is submitted is an eligible child;

“(B) determine the income bracket for such eligible child; and

“(C) make grants to State educational agencies in the amount determined under paragraph (2) by not later than 30 days after the date the Secretary receives the information under subsection (b)(2)(A)(ii).

“(2) Amount of Grants.—
“(A) IN GENERAL.—The grant amount provided to a State educational agency shall be equal to the total distribution amount determined under subparagraphs (B) and (C) for all eligible children in the State.

“(B) CONCENTRATION DISTRIBUTION.— An eligible child who is from a household, the taxable income of which for the most recently completed taxable year is not more than 100 percent of an amount equal to the poverty level, as measured by the most recent Small Area Income and Poverty Estimates of the Bureau of the Census, shall receive a concentration distribution according to the following:

“(i) If the eligible child resides in an area served by a school district in which not less than 1 percent and not more than 9 percent of the elementary school and secondary school students are from a household, the taxable income of which for the most recently completed taxable year is not more than 100 percent of an amount equal to the poverty level, as measured by the most recent Small Area Income and Pov-
tery Estimates of the Bureau of the Census, the eligible child shall receive $50.

“(ii) If the eligible child resides in an area served by a school district in which not less than 10 percent and not more than 19 percent of the elementary school and secondary school students are from a household, the taxable income of which for the most recently completed taxable year is not more than 100 percent of an amount equal to the poverty level, as measured by the most recent Small Area Income and Poverty Estimates of the Bureau of the Census, the eligible child shall receive $100.

“(iii) If the eligible child resides in an area served by a school district in which not less than 20 percent and not more than 29 percent of the elementary school and secondary school students are from a household, the taxable income of which for the most recently completed taxable year is not more than 100 percent of an amount equal to the poverty level, as measured by the most recent Small Area Income and poverty Estimates of the Bureau of the Census, the eligible child shall receive $100.
Poverty Estimates of the Bureau of the Census, the eligible child shall receive $150.

“(iv) If the eligible child resides in an area served by a school district in which not less than 30 percent and not more than 39 percent of the elementary school and secondary school students are from a household, the taxable income of which for the most recently completed taxable year is not more than 100 percent of an amount equal to the poverty level, as measured by the most recent Small Area Income and Poverty Estimates of the Bureau of the Census, the eligible child shall receive $200.

“(v) If the eligible child resides in an area served by a school district in which not less than 40 percent and not more than 49 percent of the elementary school and secondary school students are from a household, the taxable income of which for the most recently completed taxable year is not more than 100 percent of an amount equal to the poverty level, as measured by
the most recent Small Area Income and Poverty Estimates of the Bureau of the Census, the eligible child shall receive $250.

“(vi) If the eligible child resides in an area served by a school district in which 50 percent or more of the elementary school and secondary school students are from a household, the taxable income of which for the most recently completed taxable year is not more than 100 percent of an amount equal to the poverty level, as measured by the most recent Small Area Income and Poverty Estimates of the Bureau of the Census, the eligible child shall receive $300.

“(C) BASIC DISTRIBUTION.—In addition to a concentration distribution under subparagraph (B), an eligible child shall receive a basic distribution based on the income bracket applicable for such eligible child and according to a formula established by the Secretary in which benefits are flat for everyone at or below 100 percent of the Federal poverty level and de-
crease at an even rate from 100 percent to 130 percent of the Federal poverty level.

“(d) Notification of Availability of Funds.—
Not later than 100 days after the date of enactment of the Children Have Opportunities in Classrooms Everywhere Act, and annually for each of the 5 years thereafter, each State that carries out allocations described in subsection (b)(1) shall inform each parent or guardian of a child eligible for assistance under the supplemental nutrition assistance program under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.) or the program of block grants for States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) of the availability of assistance under this section.

“(e) Application of Participation of Children Enrolled in Private Schools.—The provisions of section 1117 shall apply to this section.

“(f) Rule of Construction.—
“(1) Federally funded school food programs.—Nothing in this section shall be construed to preclude a child eligible for assistance under the free and reduced price school lunch program established under the Richard B. Russell National School
Lunch Act (42 U.S.C. 1751 et seq.) from receiving assistance under such program.

“(2) Prohibition of control over non-public education providers.—Nothing in this section shall permit, allow, encourage, or authorize Federal or State control over non-public education providers.”.

SEC. 3. 529 ACCOUNT FUNDING FOR HOMESCHOOL AND ADDITIONAL ELEMENTARY AND SECONDARY EXPENSES.

(a) In General.—Section 529(c)(7) of the Internal Revenue Code of 1986 is amended to read as follows:

“(7) Treatment of elementary and secondary tuition and resources.—Any reference in this section to the term ‘qualified higher education expense’ shall include a reference to the following expenses in connection with enrollment or attendance at, or for students enrolled at or attending, an elementary or secondary public, private, or religious school:

“(A) Tuition.
“(B) Curriculum and curricular materials.
“(C) Books or other instructional materials.
“(D) Online educational materials.
“(E) Tuition for tutoring or educational classes outside of the home, including at a tutoring facility, but only if the tutor or instructor is not related to the student.

“(F) Fees for a nationally standardized norm-referenced achievement test, an advanced placement examination, or any examinations related to college or university admission.

“(G) Fees for dual enrollment in an institution of higher education.

“(H) Educational therapies for students with disabilities provided by a licensed or accredited practitioner or provider, including occupational, behavioral, physical, and speech-language therapies.

Such term shall include expenses for the purposes described in subparagraphs (A) through (H) in connection with a homeschool (whether treated as a homeschool or a private school for purposes of applicable State law).”.

(b) Effective Date.—The amendment made by this section shall apply to distributions made after the date of the enactment of this Act.
SEC. 4. INCREASED ADDITIONAL TAX ON GRANTS NOT USED FOR EDUCATIONAL PURPOSES.

Section 529(c)(6) of the Internal Revenue Code of 1986 is amended—

(1) by striking “The tax” and inserting the following:

“(A) IN GENERAL.—Except as provided in subparagraph (B), the tax”, and

(2) by adding at the end the following new subparagraph:

“(B) INCREASED TAX ON AMOUNTS ATTRIBUTABLE TO CERTAIN GRANTS.—

“(i) IN GENERAL.—In the case of any distribution from a qualified contribution program that includes amounts attributable to a qualified grant—

“(I) section 530(d)(4) shall be applied separately to amounts attributable to qualified grants and to other amounts, and

“(II) in applying such section to amounts attributable to qualified grants, such section shall be applied by substituting ‘100 percent’ for ‘10 percent’.

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“(ii) ATTRIBUTION RULES.—For purposes of this subparagraph—

“(I) any earnings on contributions from a qualified grant shall not be treated as attributed to a qualified grant, and

“(II) distributions from a qualified tuition program described in clause (i) shall be treated as distributed first from amounts other than amounts attributable to a qualified grant and then from amounts attributable to a qualified grant.

“(iii) QUALIFIED GRANT.—For purposes of this subparagraph, the term ‘qualified grant’ means any grant under section 8701 of the Elementary and Secondary Education Act of 1965.”.