

117TH CONGRESS
1ST SESSION

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.

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 “Children Have Oppor-
5 tunities in Classrooms Everywhere Act”.

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

4 Title VIII of the Elementary and Secondary Edu-
5 cation Act of 1965 (20 U.S.C. 7801 et seq.) is amended
6 by adding at the end the following:

7 **“PART H—FUNDS TO FOLLOW THE STUDENT**

8 **“SEC. 8701. FUNDS TO FOLLOW THE STUDENT.**

9 “(a) DEFINITIONS.—In this section:

10 “(1) 529 EDUCATION SAVINGS PLAN AC-
11 COUNT.—The term ‘529 education savings plan ac-
12 count’ means a qualified tuition program (as defined
13 in section 529(b)(1)(A) of the Internal Revenue
14 Code of 1986).

15 “(2) ELIGIBLE CHILD.—The term ‘eligible
16 child’ means a child who is from a household, the
17 taxable income of which for the most recently com-
18 pleted taxable year is not more than 130 percent of
19 an amount equal to the poverty level, as determined
20 by using criteria of poverty established by the Bu-
21 reau of the Census.

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

25 “(b) FUNDS TO FOLLOW THE STUDENT.—

1 “(1) IN GENERAL.—Notwithstanding any other
2 provision of law and to the extent permitted under
3 State law, a State educational agency shall allocate
4 grant funds provided under title I, subparts 2 and
5 3 of part B of title II, and titles III, IV, V, and VI,
6 for the purposes of ensuring that funding under
7 such titles follows children, to the public school the
8 children attend or for the expenses described in sec-
9 tion 529(e)(7) of the Internal Revenue Code of
10 1986.

11 “(2) PLAN.—

12 “(A) IN GENERAL.—Each State that car-
13 ries out allocations described in paragraph (1)
14 shall establish a plan that complies with the fol-
15 lowing:

16 “(i) The parent or guardian of each
17 eligible child in the State who desires ac-
18 cess to the funds described in paragraph
19 (1) shall annually submit to the State edu-
20 cational agency by not later than April 30,
21 a paper or electronic application form that
22 includes the following:

23 “(I) The parent or guardian’s
24 taxable income based on the Federal

1 tax return of the parent or guardian
2 for the prior tax year.

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

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

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

21 “(iii) Not later than July 1 of each
22 year and based on the information sub-
23 mitted under clause (i), the State edu-
24 cational agency shall—

1 “(I) if the eligible child will be
2 enrolled in a private school or home
3 school for the subsequent school year,
4 deposit the amount equal to the con-
5 centration distribution and basic dis-
6 tribution applicable for the eligible
7 child under subparagraphs (B) and
8 (C) of subsection (e)(2), into the 529
9 education savings plan account of the
10 eligible child; and

11 “(II) if the eligible child will be
12 enrolled in a public school for the sub-
13 sequent school year, distribute the
14 amount equal to the concentration
15 distribution and basic distribution ap-
16 plicable for the eligible child under
17 subparagraphs (B) and (C) of sub-
18 section (e)(2), to such public school.

19 “(B) DATA COLLECTION.—Information
20 collected under this section by the State shall
21 be used for the sole purposes of calculating the
22 allocation of funds and distribution of funds
23 under this section.

24 “(C) DATA PRIVACY PROTECTION.—Infor-
25 mation collected under this section shall be sub-

1 ject to the privacy protections outlined in sec-
2 tion 444 of the General Education Provisions
3 Act (20 U.S.C. 1232g; commonly referred to as
4 the ‘Family Educational Rights and Privacy
5 Act of 1974’).

6 “(c) CALCULATION OF AMOUNTS TO BE DISTRIB-
7 UTED.—

8 “(1) IN GENERAL.—From the amounts pro-
9 vided to carry out title I, subparts 2 and 3 of part
10 B of title II, and titles III, IV, V, and VI, and based
11 on the information submitted by State educational
12 agencies under subsection (b)(2)(A)(ii), the Sec-
13 retary shall—

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

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

20 “(C) make grants to State educational
21 agencies in the amount determined under para-
22 graph (2) by not later than 30 days after the
23 date the Secretary receives the information
24 under subsection (b)(2)(A)(ii).

25 “(2) AMOUNT OF GRANTS.—

1 “(A) IN GENERAL.—The grant amount
2 provided to a State educational agency shall be
3 equal to the total distribution amount deter-
4 mined under subparagraphs (B) and (C) for all
5 eligible children in the State.

6 “(B) CONCENTRATION DISTRIBUTION.—
7 An eligible child who is from a household, the
8 taxable income of which for the most recently
9 completed taxable year is not more than 100
10 percent of an amount equal to the poverty level,
11 as measured by the most recent Small Area In-
12 come and Poverty Estimates of the Bureau of
13 the Census, shall receive a concentration dis-
14 tribution according to the following:

15 “(i) If the eligible child resides in an
16 area served by a school district in which
17 not less than 1 percent and not more than
18 9 percent of the elementary school and sec-
19 ondary school students are from a house-
20 hold, the taxable income of which for the
21 most recently completed taxable year is not
22 more than 100 percent of an amount equal
23 to the poverty level, as measured by the
24 most recent Small Area Income and Pov-

1 erty Estimates of the Bureau of the Cen-
2 sus, the eligible child shall receive \$50.

3 “(ii) If the eligible child resides in an
4 area served by a school district in which
5 not less than 10 percent and not more
6 than 19 percent of the elementary school
7 and secondary school students are from a
8 household, the taxable income of which for
9 the most recently completed taxable year is
10 not more than 100 percent of an amount
11 equal to the poverty level, as measured by
12 the most recent Small Area Income and
13 Poverty Estimates of the Bureau of the
14 Census, the eligible child shall receive
15 \$100.

16 “(iii) If the eligible child resides in an
17 area served by a school district in which
18 not less than 20 percent and not more
19 than 29 percent of the elementary school
20 and secondary school students are from a
21 household, the taxable income of which for
22 the most recently completed taxable year is
23 not more than 100 percent of an amount
24 equal to the poverty level, as measured by
25 the most recent Small Area Income and

1 Poverty Estimates of the Bureau of the
2 Census, the eligible child shall receive
3 \$150.

4 “(iv) If the eligible child resides in an
5 area served by a school district in which
6 not less than 30 percent and not more
7 than 39 percent of the elementary school
8 and secondary school students are from a
9 household, the taxable income of which for
10 the most recently completed taxable year is
11 not more than 100 percent of an amount
12 equal to the poverty level, as measured by
13 the most recent Small Area Income and
14 Poverty Estimates of the Bureau of the
15 Census, the eligible child shall receive
16 \$200.

17 “(v) If the eligible child resides in an
18 area served by a school district in which
19 not less than 40 percent and not more
20 than 49 percent of the elementary school
21 and secondary school students are from a
22 household, the taxable income of which for
23 the most recently completed taxable year is
24 not more than 100 percent of an amount
25 equal to the poverty level, as measured by

1 the most recent Small Area Income and
2 Poverty Estimates of the Bureau of the
3 Census, the eligible child shall receive
4 \$250.

5 “(vi) If the eligible child resides in an
6 area served by a school district in which 50
7 percent or more of the elementary school
8 and secondary school students are from a
9 household, the taxable income of which for
10 the most recently completed taxable year is
11 not more than 100 percent of an amount
12 equal to the poverty level, as measured by
13 the most recent Small Area Income and
14 Poverty Estimates of the Bureau of the
15 Census, the eligible child shall receive
16 \$300.

17 “(C) BASIC DISTRIBUTION.—In addition to
18 a concentration distribution under subpara-
19 graph (B), an eligible child shall receive a basic
20 distribution based on the income bracket appli-
21 cable for such eligible child and according to a
22 formula established by the Secretary in which
23 benefits are flat for everyone at or below 100
24 percent of the Federal poverty level and de-

1 crease at an even rate from 100 percent to 130
2 percent of the Federal poverty level.

3 “(d) NOTIFICATION OF AVAILABILITY OF FUNDS.—
4 Not later than 100 days after the date of enactment of
5 the Children Have Opportunities in Classrooms Every-
6 where Act, and annually for each of the 5 years thereafter,
7 each State that carries out allocations described in sub-
8 section (b)(1) shall inform each parent or guardian of a
9 child eligible for assistance under the supplemental nutri-
10 tion assistance program under the Food and Nutrition Act
11 of 2008 (7 U.S.C. 2011 et seq.) or the program of block
12 grants for States for temporary assistance for needy fami-
13 lies established under part A of title IV of the Social Secu-
14 rity Act (42 U.S.C. 601 et seq.) of the availability of as-
15 sistance under this section.

16 “(e) APPLICATION OF PARTICIPATION OF CHILDREN
17 ENROLLED IN PRIVATE SCHOOLS.—The provisions of sec-
18 tion 1117 shall apply to this section.

19 “(f) RULE OF CONSTRUCTION.—

20 “(1) FEDERALLY FUNDED SCHOOL FOOD PRO-
21 GRAMS.—Nothing in this section shall be construed
22 to preclude a child eligible for assistance under the
23 free and reduced price school lunch program estab-
24 lished under the Richard B. Russell National School

1 Lunch Act (42 U.S.C. 1751 et seq.) from receiving
2 assistance under such program.

3 “(2) PROHIBITION OF CONTROL OVER NON-
4 PUBLIC EDUCATION PROVIDERS.—Nothing in this
5 section shall permit, allow, encourage, or authorize
6 Federal or State control over non-public education
7 providers.”.

8 **SEC. 3. 529 ACCOUNT FUNDING FOR HOMESCHOOL AND AD-**
9 **DITIONAL ELEMENTARY AND SECONDARY EX-**
10 **PENSES.**

11 (a) IN GENERAL.—Section 529(c)(7) of the Internal
12 Revenue Code of 1986 is amended to read as follows:

13 “(7) TREATMENT OF ELEMENTARY AND SEC-
14 ONDARY TUITION AND RESOURCES.—Any reference
15 in this section to the term ‘qualified higher edu-
16 cation expense’ shall include a reference to the fol-
17 lowing expenses in connection with enrollment or at-
18 tendance at, or for students enrolled at or attending,
19 an elementary or secondary public, private, or reli-
20 gious school:

21 “(A) Tuition.

22 “(B) Curriculum and curricular materials.

23 “(C) Books or other instructional mate-
24 rials.

25 “(D) Online educational materials.

1 “(E) Tuition for tutoring or educational
2 classes outside of the home, including at a tu-
3 toring facility, but only if the tutor or instruc-
4 tor is not related to the student.

5 “(F) Fees for a nationally standardized
6 norm-referenced achievement test, an advanced
7 placement examination, or any examinations re-
8 lated to college or university admission.

9 “(G) Fees for dual enrollment in an insti-
10 tution of higher education.

11 “(H) Educational therapies for students
12 with disabilities provided by a licensed or ac-
13 credited practitioner or provider, including oc-
14 cupational, behavioral, physical, and speech-lan-
15 guage therapies.

16 Such term shall include expenses for the purposes
17 described in subparagraphs (A) through (H) in con-
18 nection with a homeschool (whether treated as a
19 homeschool or a private school for purposes of appli-
20 cable State law).”.

21 (b) EFFECTIVE DATE.—The amendment made by
22 this section shall apply to distributions made after the
23 date of the enactment of this Act.

1 **SEC. 4. INCREASED ADDITIONAL TAX ON GRANTS NOT**
2 **USED FOR EDUCATIONAL PURPOSES.**

3 Section 529(c)(6) of the Internal Revenue Code of
4 1986 is amended—

5 (1) by striking “The tax” and inserting the fol-
6 lowing:

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

9 (2) by adding at the end the following new sub-
10 paragraph:

11 “(B) INCREASED TAX ON AMOUNTS AT-
12 TRIBUTABLE TO CERTAIN GRANTS.—

13 “(i) IN GENERAL.—In the case of any
14 distribution from a qualified contribution
15 program that includes amounts attrib-
16 utable to a qualified grant—

17 “(I) section 530(d)(4) shall be
18 applied separately to amounts attrib-
19 utable to qualified grants and to other
20 amounts, and

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

1 “(ii) **ATTRIBUTION RULES.**—For pur-
2 poses of this subparagraph—

3 “(I) any earnings on contribu-
4 tions from a qualified grant shall not
5 be treated as attributed to a qualified
6 grant, and

7 “(II) distributions from a quali-
8 fied tuition program described in
9 clause (i) shall be treated as distrib-
10 uted first from amounts other than
11 amounts attributable to a qualified
12 grant and then from amounts attrib-
13 utable to a qualified grant.

14 “(iii) **QUALIFIED GRANT.**—For pur-
15 poses of this subparagraph, the term
16 ‘qualified grant’ means any grant under
17 section 8701 of the Elementary and Sec-
18 ondary Education Act of 1965.”.

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