

118TH CONGRESS  
1ST SESSION

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

To have education funds follow the student.

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IN THE SENATE OF THE UNITED STATES

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Mr. LEE introduced the following bill; which was read twice and referred to  
the Committee on \_\_\_\_\_

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**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”.

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

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

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

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

3       “(a) DEFINITIONS.—In this section:

4               “(1) 529 EDUCATION SAVINGS PLAN AC-  
5       COUNT.—The term ‘529 education savings plan ac-  
6       count’ means a qualified tuition program (as defined  
7       in section 529(b)(1)(A) of the Internal Revenue  
8       Code of 1986).

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

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

19      “(b) FUNDS TO FOLLOW THE STUDENT.—

20              “(1) IN GENERAL.—Notwithstanding any other  
21      provision of law and to the extent permitted under  
22      State law, a State educational agency shall allocate  
23      grant funds provided under title I, subparts 2 and  
24      3 of part B of title II, and titles III, IV, V, and VI,  
25      for the purposes of ensuring that funding under  
26      such titles follows children, to the public school the

1 children attend or for the expenses described in sec-  
2 tion 529(c)(7) of the Internal Revenue Code of  
3 1986.

4 “(2) PLAN.—

5 “(A) IN GENERAL.—Each State that car-  
6 ries out allocations described in paragraph (1)  
7 shall establish a plan that complies with the fol-  
8 lowing:

9 “(i) The parent or guardian of each  
10 eligible child in the State who desires ac-  
11 cess to the funds described in paragraph  
12 (1) shall annually submit to the State edu-  
13 cational agency by not later than April 30,  
14 a paper or electronic application form that  
15 includes the following:

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

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

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

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

14                   “(iii) Not later than July 1 of each  
15                   year and based on the information sub-  
16                   mitted under clause (i), the State edu-  
17                   cational agency shall—

18                   “(I) if the eligible child will be  
19                   enrolled in a private school or home  
20                   school for the subsequent school year,  
21                   deposit the amount equal to the con-  
22                   centration distribution and basic dis-  
23                   tribution applicable for the eligible  
24                   child under subparagraphs (B) and  
25                   (C) of subsection (e)(2), into the 529

1 education savings plan account of the  
2 eligible child; and

3 “(II) if the eligible child will be  
4 enrolled in a public school for the sub-  
5 sequent school year, distribute the  
6 amount equal to the concentration  
7 distribution and basic distribution ap-  
8 plicable for the eligible child under  
9 subparagraphs (B) and (C) of sub-  
10 section (c)(2), to such public school.

11 “(B) DATA COLLECTION.—Information  
12 collected under this section by the State shall  
13 be used for the sole purposes of calculating the  
14 allocation of funds and distribution of funds  
15 under this section.

16 “(C) DATA PRIVACY PROTECTION.—Infor-  
17 mation collected under this section shall be sub-  
18 ject to the privacy protections outlined in sec-  
19 tion 444 of the General Education Provisions  
20 Act (20 U.S.C. 1232g; commonly referred to as  
21 the ‘Family Educational Rights and Privacy  
22 Act of 1974’).

23 “(c) CALCULATION OF AMOUNTS TO BE DISTRIB-  
24 UTED.—

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

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

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

13                   “(C) make grants to State educational  
14          agencies in the amount determined under para-  
15          graph (2) by not later than 30 days after the  
16          date the Secretary receives the information  
17          under subsection (b)(2)(A)(ii).

18          “(2) AMOUNT OF GRANTS.—

19                   “(A) IN GENERAL.—The grant amount  
20          provided to a State educational agency shall be  
21          equal to the total distribution amount deter-  
22          mined under subparagraphs (B) and (C) for all  
23          eligible children in the State.

24                   “(B) CONCENTRATION DISTRIBUTION.—  
25          An eligible child who is from a household, the

1 taxable income of which for the most recently  
2 completed taxable year is not more than 100  
3 percent of an amount equal to the poverty level,  
4 as measured by the most recent Small Area In-  
5 come and Poverty Estimates of the Bureau of  
6 the Census, shall receive a concentration dis-  
7 tribution according to the following:

8 “(i) If the eligible child resides in an  
9 area served by a school district in which  
10 not less than 1 percent and not more than  
11 9 percent of the elementary school and sec-  
12 ondary school students are from a house-  
13 hold, the taxable income of which for the  
14 most recently completed taxable year is not  
15 more than 100 percent of an amount equal  
16 to the poverty level, as measured by the  
17 most recent Small Area Income and Pov-  
18 erty Estimates of the Bureau of the Cen-  
19 sus, the eligible child shall receive \$50.

20 “(ii) If the eligible child resides in an  
21 area served by a school district in which  
22 not less than 10 percent and not more  
23 than 19 percent of the elementary school  
24 and secondary school students are from a  
25 household, the taxable income of which for

1 the most recently completed taxable year is  
2 not more than 100 percent of an amount  
3 equal to the poverty level, as measured by  
4 the most recent Small Area Income and  
5 Poverty Estimates of the Bureau of the  
6 Census, the eligible child shall receive  
7 \$100.

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

21 “(iv) If the eligible child resides in an  
22 area served by a school district in which  
23 not less than 30 percent and not more  
24 than 39 percent of the elementary school  
25 and secondary school students are from a



1 household, the taxable income of which for  
2 the most recently completed taxable year is  
3 not more than 100 percent of an amount  
4 equal to the poverty level, as measured by  
5 the most recent Small Area Income and  
6 Poverty Estimates of the Bureau of the  
7 Census, the eligible child shall receive  
8 \$200.

9 “(v) If the eligible child resides in an  
10 area served by a school district in which  
11 not less than 40 percent and not more  
12 than 49 percent of the elementary school  
13 and secondary school students are from a  
14 household, the taxable income of which for  
15 the most recently completed taxable year is  
16 not more than 100 percent of an amount  
17 equal to the poverty level, as measured by  
18 the most recent Small Area Income and  
19 Poverty Estimates of the Bureau of the  
20 Census, the eligible child shall receive  
21 \$250.

22 “(vi) If the eligible child resides in an  
23 area served by a school district in which 50  
24 percent or more of the elementary school  
25 and secondary school students are from a

1 household, the taxable income of which for  
2 the most recently completed taxable year is  
3 not more than 100 percent of an amount  
4 equal to the poverty level, as measured by  
5 the most recent Small Area Income and  
6 Poverty Estimates of the Bureau of the  
7 Census, the eligible child shall receive  
8 \$300.

9 “(C) BASIC DISTRIBUTION.—In addition to  
10 a concentration distribution under subpara-  
11 graph (B), an eligible child shall receive a basic  
12 distribution based on the income bracket appli-  
13 cable for such eligible child and according to a  
14 formula established by the Secretary in which  
15 benefits are flat for everyone at or below 100  
16 percent of the Federal poverty level and de-  
17 crease at an even rate from 100 percent to 130  
18 percent of the Federal poverty level.

19 “(d) NOTIFICATION OF AVAILABILITY OF FUNDS.—  
20 Not later than 100 days after the date of enactment of  
21 the Children Have Opportunities in Classrooms Every-  
22 where Act, and annually for each of the 5 years thereafter,  
23 each State that carries out allocations described in sub-  
24 section (b)(1) shall inform each parent or guardian of a  
25 child eligible for assistance under the supplemental nutri-

1 tion assistance program under the Food and Nutrition Act  
2 of 2008 (7 U.S.C. 2011 et seq.) or the program of block  
3 grants for States for temporary assistance for needy fami-  
4 lies established under part A of title IV of the Social Secu-  
5 rity Act (42 U.S.C. 601 et seq.) of the availability of as-  
6 sistance under this section.

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

10 “(f) RULE OF CONSTRUCTION.—

11 “(1) FEDERALLY FUNDED SCHOOL FOOD PRO-  
12 GRAMS.—Nothing in this section shall be construed  
13 to preclude a child eligible for assistance under the  
14 free and reduced price school lunch program estab-  
15 lished under the Richard B. Russell National School  
16 Lunch Act (42 U.S.C. 1751 et seq.) from receiving  
17 assistance under such program.

18 “(2) PROHIBITION OF CONTROL OVER NON-  
19 PUBLIC EDUCATION PROVIDERS.—Nothing in this  
20 section shall permit, allow, encourage, or authorize  
21 Federal or State control over non-public education  
22 providers.”.

1 **SEC. 3. 529 ACCOUNT FUNDING FOR HOMESCHOOL AND AD-**  
2 **DITIONAL ELEMENTARY AND SECONDARY EX-**  
3 **PENSES.**

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

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

14 “(A) Tuition.

15 “(B) Curriculum and curricular materials.

16 “(C) Books or other instructional mate-  
17 rials.

18 “(D) Online educational materials.

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

23 “(F) Fees for a nationally standardized  
24 norm-referenced achievement test, an advanced  
25 placement examination, or any examinations re-  
26 lated to college or university admission.

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

3               “(H) Educational therapies for students  
4               with disabilities provided by a licensed or ac-  
5               credited practitioner or provider, including oc-  
6               cupational, behavioral, physical, and speech-lan-  
7               guage therapies.

8               Such term shall include expenses for the purposes  
9               described in subparagraphs (A) through (H) in con-  
10              nection with a homeschool (whether treated as a  
11              homeschool or a private school for purposes of appli-  
12              cable State law).”.

13              (b) EFFECTIVE DATE.—The amendment made by  
14              this section shall apply to distributions made after the  
15              date of the enactment of this Act.

16              **SEC. 4. INCREASED ADDITIONAL TAX ON GRANTS NOT**  
17   **USED FOR EDUCATIONAL PURPOSES.**

18              Section 529(c)(6) of the Internal Revenue Code of  
19              1986 is amended—

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

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

24                      (2) by adding at the end the following new sub-  
25                      paragraph:

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

3                   “(i) IN GENERAL.—In the case of any  
4                   distribution from a qualified contribution  
5                   program that includes amounts attrib-  
6                   utable to a qualified grant—

7                   “(I) section 530(d)(4) shall be  
8                   applied separately to amounts attrib-  
9                   utable to qualified grants and to other  
10                  amounts, and

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

16                  “(ii) CONTRIBUTION RULES.—For pur-  
17                  poses of this subparagraph—

18                  “(I) any earnings on contribu-  
19                  tions from a qualified grant shall not  
20                  be treated as attributed to a qualified  
21                  grant, and

22                  “(II) distributions from a quali-  
23                  fied tuition program described in  
24                  clause (i) shall be treated as distrib-  
25                  uted first from amounts other than

1 amounts attributable to a qualified  
2 grant and then from amounts attrib-  
3 utable to a qualified grant.

4 “(iii) QUALIFIED GRANT.—For pur-  
5 poses of this subparagraph, the term  
6 ‘qualified grant’ means any grant under  
7 section 8701 of the Elementary and Sec-  
8 ondary Education Act of 1965.”.