To have education funds follow the student.

IN THE SENATE OF THE UNITED STATES

Mr. Lee (for himself and Mr. Tuberville) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To have education funds follow the student.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Children Have Oppor-
tunities in Classrooms Everywhere Act”.

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

Title VIII of the Elementary and Secondary Edu-
cation 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 district, and school in which the eligible child will be enrolled for the subsequent 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 account, including the necessary details of such account to enable the State to deposit funds available under this section 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 submitted under clause (i), the State educational 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 subject to the privacy protections outlined in section 444 of the General Education Provisions Act (20 U.S.C. 1232g; commonly referred to as the ‘Family Educational Rights and Privacy Act of 1974’).

“(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 Poverty 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 $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 subpara-
graph (B), an eligible child shall receive a basic
distribution based on the income bracket appli-
cable 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 Every-
where Act, and annually for each of the 5 years thereafter,
each State that carries out allocations described in sub-
section (b)(1) shall inform each parent or guardian of a
child eligible for assistance under the supplemental nutri-
tion 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 sub-
paragraph:
“(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’.

“(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
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amounts attributable to a qualified
grant and then from amounts attribu-
table to a qualified grant.

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