

113TH CONGRESS
1ST SESSION

H. R. 2394

To allow a State to opt out of K–12 education grant programs and the requirements of those programs, to amend the Internal Revenue Code of 1986 to provide a credit to taxpayers in such a State, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2013

Mr. GARRETT (for himself, Mr. BISHOP of Utah, Mr. SOUTHERLAND, Mr. PEARCE, Mr. HUELSKAMP, Mr. KING of Iowa, Mr. HUIZENGA of Michigan, Mr. MULVANEY, Mr. LAMALFA, Mr. PITTENGER, Mr. FRANKS of Arizona, Mr. CHABOT, Mr. POSEY, Mr. GOHMERT, Mrs. BLACKBURN, Mr. MULLIN, Mr. CAMPBELL, Mr. BROUN of Georgia, and Mr. JONES) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, 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 allow a State to opt out of K–12 education grant programs and the requirements of those programs, to amend the Internal Revenue Code of 1986 to provide a credit to taxpayers in such a State, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Local Education Authority Returns Now Act”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ABILITY OF STATES TO OPT OUT OF K-12 EDUCATION
GRANT PROGRAMS

Sec. 101. Determinations by Secretary of the Treasury as to which States are
opt-out States.

Sec. 102. Amounts creditable to States.

Sec. 103. Opt-out States not eligible to receive grants under K-12 education
grant programs.

Sec. 104. Requirements of K-12 education grant programs do not apply to opt-
out States.

Sec. 105. Definitions.

TITLE II—CREDIT TO TAXPAYERS IN OPT-OUT STATE

Sec. 201. Refundable opt-out State education credit.

6 **TITLE I—ABILITY OF STATES TO**
7 **OPT OUT OF K-12 EDUCATION**
8 **GRANT PROGRAMS**

9 **SEC. 101. DETERMINATIONS BY SECRETARY OF THE TREAS-**
10 **URY AS TO WHICH STATES ARE OPT-OUT**
11 **STATES.**

12 (a) DEADLINE.—Not later than February 1 of each
13 calendar year (hereinafter in this title referred to as the
14 “determination year”), the Secretary of the Treasury shall
15 determine which States, if any, are opt-out States for the
16 calendar year (hereinafter in this title referred to as the
17 “opt-out year”) that follows the determination year.

1 (b) DETERMINATION.—The Secretary of the Treas-
2 ury shall determine that a State is an opt-out State for
3 an opt-out year under subsection (a) if, and only if, there
4 is transmitted to the Secretary a copy of a law, in effect
5 as of January 1 of the determination year, that can fairly
6 be read to mean that the policy of the State is to not ac-
7 cept grant funds under the K–12 education grant pro-
8 grams, and thereby to not be bound by the requirements
9 of those programs, for that opt-out year.

10 (c) NOTIFICATION.—Upon making a determination
11 under subsection (a), the Secretary of the Treasury shall
12 transmit that determination to the Secretary of Education
13 and to Congress.

14 **SEC. 102. AMOUNTS CREDITABLE TO STATES.**

15 (a) IN GENERAL.—For purposes of determinations
16 relating to the refundable opt-out State education credit
17 under section 36D of the Internal Revenue Code of 1986,
18 as early as practicable for a calendar year, the Secretary
19 of Education shall, for each State, determine the amount
20 creditable to that State for that calendar year and make
21 available that determination.

22 (b) AMOUNT CREDITABLE.—The Secretary shall de-
23 termine the amount creditable to a State for a calendar
24 year as follows:

1 (1) If the State was not an opt-out State for
2 the preceding calendar year, the amount creditable
3 for the calendar year shall be equal to the aggregate
4 K–12 funding (as determined under subsection (d))
5 for that State for that preceding calendar year.

6 (2) If the State was an opt-out State for the
7 preceding calendar year, the amount creditable for
8 the calendar year shall be equal to—

9 (A) the extrapolated amount (as deter-
10 mined under subsection (c)) for that preceding
11 calendar year, plus

12 (B) the amount that results when the
13 amount creditable for that preceding calendar
14 year is subtracted from the extrapolated
15 amount (as determined under subsection (c))
16 for that preceding calendar year.

17 (c) EXTRAPOLATED AMOUNT.—

18 (1) IN GENERAL.—The Secretary of Education
19 shall determine the extrapolated amount for a State
20 for a calendar year. The determination shall be
21 based on—

22 (A) the amount of grant funds that would
23 have been received other than on a competitive
24 basis, as direct grants, subgrants, or otherwise,
25 under the K–12 education grant programs, by

1 the State or any public educational entity in the
2 State for that calendar year, had it elected not
3 to be an opt-out State for that calendar year;
4 plus

5 (B) the average annual amount of all grant
6 funds that would have been received on a com-
7 petitive basis, as direct grants, subgrants, or
8 otherwise, under the K–12 education grant pro-
9 grams, by the State or any public educational
10 entity in the State for that calendar year and
11 the four preceding calendar years, had it elected
12 not to be an opt-out State for those calendar
13 years.

14 (2) REGULATIONS.—The Secretary shall pre-
15 scribe regulations for making determinations re-
16 quired by this subsection. The initial regulations
17 shall be prescribed not later than 6 months after the
18 date of the enactment of this Act.

19 (d) AGGREGATE K–12 FUNDING.—The aggregate K–
20 12 funding for a State for a calendar year shall be equal
21 to—

22 (1) the amount of all grant funds received other
23 than on a competitive basis, as direct grants, sub-
24 grants, or otherwise, under the K–12 education
25 grant programs, by the State or any public edu-

1 cational entity in the State for that calendar year;
 2 plus

3 (2) the average annual amount of all grant
 4 funds received on a competitive basis, as direct
 5 grants, subgrants, or otherwise, under the K–12
 6 education grant programs, by the State or any pub-
 7 lic educational entity in the State for that calendar
 8 year and the four preceding calendar years.

9 **SEC. 103. OPT-OUT STATES NOT ELIGIBLE TO RECEIVE**
 10 **GRANTS UNDER K-12 EDUCATION GRANT**
 11 **PROGRAMS.**

12 (a) IN GENERAL.—When a State is an opt-out State
 13 for a calendar year, neither the State nor any public edu-
 14 cational entity in the State is eligible to receive, as direct
 15 grants, subgrants, or otherwise, any funds under any of
 16 the K–12 education grant programs for that calendar
 17 year.

18 (b) REALLOCATION.—Any funds under a K–12 edu-
 19 cation grant program that are not allocated to a State or
 20 public educational entity in the State by reason of sub-
 21 section (a) shall be returned to the Treasury.

22 **SEC. 104. REQUIREMENTS OF K-12 EDUCATION GRANT PRO-**
 23 **GRAMS DO NOT APPLY TO OPT-OUT STATES.**

24 When a State is an opt-out State for a calendar year,
 25 neither the State nor any public educational entity in the

1 State is subject to any statutory or regulatory requirement
 2 of a K–12 education grant program for that calendar year.

3 **SEC. 105. DEFINITIONS.**

4 In this title:

5 (1) The term “K–12 education grant program”
 6 means any grant program carried out under any
 7 title of the Elementary and Secondary Education
 8 Act of 1965, except for the following:

9 (A) INDIAN, NATIVE HAWAIIAN, AND ALAS-
 10 KA NATIVE EDUCATION.—Title VII (20 U.S.C.
 11 7401 et seq.).

12 (B) IMPACT AID.—Title VIII (20 U.S.C.
 13 7701 et seq.).

14 (2) The term “public educational entity”
 15 means, with respect to a State, the State educational
 16 agency, any local educational agency in the State, or
 17 any public elementary or secondary school in the
 18 State.

19 **TITLE II—CREDIT TO**
 20 **TAXPAYERS IN OPT-OUT STATE**

21 **SEC. 201. REFUNDABLE OPT-OUT STATE EDUCATION CRED-**
 22 **IT.**

23 (a) IN GENERAL.—Subpart C of part IV of sub-
 24 chapter A of chapter 1 of the Internal Revenue Code of

1 1986 (relating to refundable credits) is amended by insert-
 2 ing after section 36B the following new section:

3 **“SEC. 36C. OPT-OUT STATE EDUCATION CREDIT.**

4 “(a) GENERAL RULE.—In the case of an eligible indi-
 5 vidual, there shall be allowed as a credit against the tax
 6 imposed by this chapter for the taxable year the opt-out
 7 State education amount.

8 “(b) OPT-OUT STATE EDUCATION AMOUNT.—For
 9 purposes of this section—

10 “(1) IN GENERAL.—The term ‘opt-out State
 11 education amount’ means, with respect to a taxpayer
 12 for a taxable year beginning in an opt-out year, the
 13 amount equal to—

14 “(A) the amount creditable under section
 15 102 of the Local Education Authority Returns
 16 Now Act to an opt-out State (determined under
 17 section 101 of such Act), multiplied by—

18 “(B) a fraction—

19 “(i) the numerator of which is the
 20 taxpayer’s household tax burden from such
 21 State for the opt-out year, and

22 “(ii) the denominator of which is the
 23 total tax revenue of such State for the opt-
 24 out year.

1 “(2) HOUSEHOLD TAX BURDEN.—The house-
 2 hold tax burden from a State for an opt-out year is
 3 the sum of—

4 “(A) the State real property taxes,

5 “(B) the State personal property taxes,

6 “(C) the State income, war profits, and ex-
 7 cess profits taxes, plus

8 “(D) the State general sales taxes,
 9 for the calendar year in which the second preceding
 10 taxable year ends and within which paid or accrued
 11 by the taxpayer. For purposes of this section, terms
 12 used in the preceding sentence which are also used
 13 in section 164 shall have the respective meanings
 14 given such terms by section 164.

15 “(3) TOTAL TAX REVENUE.—The total tax rev-
 16 enue of a State for an opt-out year is the amount
 17 determined by the Secretary to be the aggregate tax
 18 revenue of such State for the calendar year in which
 19 the second preceding taxable year ends.

20 “(c) ELIGIBLE INDIVIDUAL.—For purposes of this
 21 section—

22 “(1) IN GENERAL.—The term ‘eligible indi-
 23 vidual’ means an individual whose principal place of
 24 abode (within the meaning of section 121) was in
 25 the opt-out State for the entire taxable year.

1 “(2) DEPENDENTS.—The term ‘eligible indi-
 2 vidual’ does not include any individual if a deduction
 3 under section 151 with respect to such individual is
 4 allowed to another taxpayer for a taxable year begin-
 5 ning in the calendar year in which such individual’s
 6 taxable year begins.

7 “(d) OPT-OUT YEAR.—The term ‘opt-out year’
 8 means a calendar year for which the Secretary determines
 9 a State to be an opt-out State under section 101 of the
 10 Local Education Authority Returns Now Act.

11 “(e) AMOUNT OF CREDIT SHALL BE DETERMINED
 12 UNDER TABLES.—

13 “(1) IN GENERAL.—The credit under sub-
 14 section (a) shall be determined under tables pre-
 15 scribed by the Secretary.

16 “(2) REQUIREMENTS FOR TABLES.—The tables
 17 prescribed under paragraph (1) shall—

18 “(A) reflect the provisions of this section,
 19 and

20 “(B) take into account filing status, State
 21 of residence, and adjusted gross income.”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) Paragraph (2) of section 1324(b) of title
 24 31, United States Code, is amended by inserting
 25 “36C,” after “36B,”.

1 (2) The table of sections for subpart C of part
2 IV of subchapter A of chapter 1 of the Internal Rev-
3 enue Code of 1986 is amended by inserting after the
4 item relating to section 36B the following new item:

“Sec. 36C. Opt-out State education credit.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to taxable years beginning after
7 the date of the enactment of this Act.

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