

115TH CONGRESS
2D SESSION

S. 2306

To amend the Internal Revenue Code of 1986 to encourage the use of 529 plans and Coverdell education savings accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2018

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

A BILL

To amend the Internal Revenue Code of 1986 to encourage the use of 529 plans and Coverdell education savings accounts, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Enhancing Edu-
5 cational Opportunities for all Students Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—TITLE I OF THE ESEA PORTABILITY

Sec. 101. Title I portability.

TITLE II—FURTHER CLARIFICATION OF COVERDELL EDUCATION
SAVINGS ACCOUNTS

Sec. 201. Allowance of home school expenses as qualified education expenses
for purposes of a Coverdell Education Savings Account.

Sec. 202. Elimination of Coverdell Education Savings Account contribution lim-
itation.

TITLE III—529 PROGRAMS FOR ELEMENTARY AND SECONDARY
EDUCATION EXPENSES

Sec. 301. Programs for pre-kindergarten, elementary, and secondary education
expenses.

1 **TITLE I—TITLE I OF THE ESEA**
2 **PORTABILITY**

3 **SEC. 101. TITLE I PORTABILITY.**

4 (a) IN GENERAL.—Part A of title I of the Elemen-
5 tary and Secondary Education Act of 1965 (20 U.S.C.
6 6311 et seq.) is amended by adding at the end the fol-
7 lowing:

8 **“SEC. 1128. TITLE I FUNDS FOLLOW THE LOW-INCOME**
9 **CHILD STATE OPTION.**

10 “(a) IN GENERAL.—Notwithstanding any other pro-
11 vision of law and to the extent permitted under State law,
12 a State educational agency may allocate grant funds under
13 this part among the local educational agencies in the State
14 based on the number of eligible children enrolled in the
15 public schools served by each local educational agency and
16 the State-accredited private schools within each local edu-
17 cational agency’s geographic jurisdiction.

18 “(b) ELIGIBLE CHILD.—

1 “(1) DEFINITION.—In this section, the term
 2 ‘eligible child’ means a child aged 5 to 17, inclusive,
 3 from a family with an income below the poverty level
 4 on the basis of the most recent satisfactory data
 5 published by the Department of Commerce.

6 “(2) CRITERIA OF POVERTY.—In determining
 7 the families with incomes below the poverty level for
 8 the purposes of this section, a State educational
 9 agency shall use the criteria of poverty used by the
 10 Census Bureau in compiling the most recent decen-
 11 nial census, as the criteria have been updated by in-
 12 creases in the Consumer Price Index for All Urban
 13 Consumers, published by the Bureau of Labor Sta-
 14 tistics.

15 “(c) STUDENT ENROLLMENT IN PUBLIC AND PRI-
 16 VATE SCHOOLS.—

17 “(1) IDENTIFICATION OF ELIGIBLE CHIL-
 18 DREN.—On an annual basis, on a date to be deter-
 19 mined by the State educational agency, each local
 20 educational agency that receives grant funding in ac-
 21 cordance with subsection (a) shall inform the State
 22 educational agency of the number of eligible children
 23 enrolled in public schools served by the local edu-
 24 cational agency and the State-accredited private

1 schools within the local educational agency's geo-
2 graphic jurisdiction.

3 “(2) ALLOCATION TO LOCAL EDUCATIONAL
4 AGENCIES.—Based on the identification of eligible
5 children in paragraph (1), the State educational
6 agency shall provide to a local educational agency an
7 amount equal to the sum of the amount available for
8 each eligible child in the State multiplied by the
9 number of eligible children identified by the local
10 educational agency under paragraph (1).

11 “(3) DISTRIBUTION TO SCHOOLS.—Each local
12 educational agency that receives funds under para-
13 graph (2) shall distribute such funds to the public
14 schools served by the local educational agency and
15 State-accredited private schools within the local edu-
16 cational agency's geographic jurisdiction—

17 “(A) based on the number of eligible chil-
18 dren enrolled in such schools; and

19 “(B) in a manner that would, in the ab-
20 sence of such Federal funds, supplement the
21 funds made available from non-Federal re-
22 sources for the education of pupils participating
23 in programs under this subpart, and not to sup-
24 plant such funds.”.

1 (b) AMENDMENT TO TABLE OF CONTENTS.—The
 2 table of contents in section 2 of the Elementary and Sec-
 3 ondary Education Act of 1965 is amended by inserting
 4 after the item relating to section 1127 the following:

“Sec. 1128. Title I funds follow the low-income child State option.”.

5 **TITLE II—FURTHER CLARIFICA-**
 6 **TION OF COVERDELL EDU-**
 7 **CATION SAVINGS ACCOUNTS**

8 **SEC. 201. ALLOWANCE OF HOME SCHOOL EXPENSES AS**
 9 **QUALIFIED EDUCATION EXPENSES FOR PUR-**
 10 **POSES OF A COVERDELL EDUCATION SAV-**
 11 **INGS ACCOUNT.**

12 (a) IN GENERAL.—Paragraph (3) of section 530(b)
 13 of the Internal Revenue Code of 1986 is amended by add-
 14 ing at the end the following new subparagraph:

15 “(C) PRIVATE SCHOOL.—For purposes of
 16 this section, the term ‘private school’ includes
 17 any home school that meets the requirements of
 18 State law applicable to such home schools,
 19 whether or not such school is deemed a private
 20 school for purposes of State law.”.

21 (b) EFFECTIVE DATE.—The amendment made by
 22 this section shall apply to taxable years beginning after
 23 December 31, 2017.

1 **SEC. 202. ELIMINATION OF COVERDELL EDUCATION SAV-**
 2 **INGS ACCOUNT CONTRIBUTION LIMITATION.**

3 (a) IN GENERAL.—Subparagraph (A) of section
 4 530(b)(1) of the Internal Revenue Code of 1986 is amend-
 5 ed by inserting “or” at the end of clause (i), by striking
 6 “, or” at the end of clause (ii) and inserting a period,
 7 and by striking clause (iii).

8 (b) PROHIBITION ON EXCESS CONTRIBUTIONS.—
 9 Subsection (b) of section 530 of the Internal Revenue
 10 Code of 1986 is amended by adding at the end the fol-
 11 lowing new paragraph:

12 “(5) PROHIBITION ON EXCESS CONTRIBU-
 13 TIONS.—A program shall not be treated as a Cover-
 14 dell education savings account unless it provides
 15 adequate safeguards to prevent contributions on be-
 16 half of a designated beneficiary in excess of those
 17 necessary to provide for the qualified education ex-
 18 penses of the beneficiary.”.

19 (c) EFFECTIVE DATE.—The amendments made by
 20 this section shall apply to taxable years beginning after
 21 December 31, 2017.

1 **TITLE III—529 PROGRAMS FOR**
 2 **ELEMENTARY AND SEC-**
 3 **ONDARY EDUCATION EX-**
 4 **PENSES**

5 **SEC. 301. PROGRAMS FOR PRE-KINDERGARTEN, ELEMEN-**
 6 **TARY, AND SECONDARY EDUCATION EX-**
 7 **PENSES.**

8 (a) IN GENERAL.—Paragraph (7) of section 529(c)
 9 of the Internal Revenue Code of 1986, as added by section
 10 11032 of Public Law 115–97, is amended to read as fol-
 11 lows:

12 “(7) TREATMENT OF CERTAIN PRE-HIGHER
 13 EDUCATION EXPENSES.—

14 “(A) IN GENERAL.—Any reference in this
 15 section to the term ‘qualified higher education
 16 expense’ shall include a reference to—

17 “(i) expenses for tuition, fees, aca-
 18 demic tutoring, special needs services (in
 19 the case of a special needs beneficiary),
 20 and books, supplies, and other equipment
 21 which are incurred in connection with the
 22 enrollment or attendance of the designated
 23 beneficiary as a pre-kindergarten, elemen-
 24 tary, or secondary school student at a pub-
 25 lic, private, or religious school,

“(ii) expenses for room and board, uniforms, transportation, and supplementary items and services (including extended day programs) which are required or provided by a public, private, or religious school in connection with such enrollment or attendance, and

“(iii) expenses for the purchase of any computer technology or equipment (as defined in section 170(e)(6)(F)(i)) or Internet access and related services, if such technology, equipment, or services are to be used by the beneficiary and the beneficiary’s family during any of the years the beneficiary is in school.

Clause (iii) shall not include expenses for computer software designed for sports, games, or hobbies unless the software is predominantly educational in nature.

“(B) SCHOOL.—For purposes of this paragraph, the term ‘school’ means any school (including a home school) which provides pre-kindergarten, elementary, or secondary education (pre-kindergarten through grade 12), as determined under State law. Such a school shall be

1 treated as an eligible educational institution for
2 purposes of subsection (b).”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to distributions made after Decem-
5 ber 31, 2017.

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