

115TH CONGRESS
1ST SESSION

H. R. 716

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 HOUSE OF REPRESENTATIVES

JANUARY 27, 2017

Mr. MESSER 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 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.

Sec. 102. Table of contents amendment.

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 limitation.

TITLE III—529 PROGRAMS FOR ELEMENTARY AND SECONDARY EDUCATION EXPENSES

Sec. 301. 529 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 Part A of title I of the Elementary and Secondary
 5 Education Act of 1965 (20 U.S.C. 6311 et seq.) is amend-
 6 ed by adding at the end the following:

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

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

17 “(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 **SEC. 102. TABLE OF CONTENTS AMENDMENT.**

2 The table of contents in section 2 of the Elementary
3 and Secondary Education Act of 1965 (20 U.S.C. 6301
4 et seq.) is amended by inserting after the item relating
5 to section 1127 the following:

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

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

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

13 (a) **IN GENERAL.**—Section 530(b)(3) of the Internal
14 Revenue Code of 1986 is amended by adding at the end
15 the following new subparagraph:

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

22 (b) **EFFECTIVE DATE.**—The amendment made by
23 this section shall apply to taxable years beginning after
24 December 31, 2014.

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

3 (a) **IN GENERAL.**—Section 530(b)(1)(A) of the Inter-
4 nal Revenue Code of 1986 is amended by inserting “or”
5 at the end of clause (i), by striking “or” at the end of
6 clause (ii) and inserting a period, and by striking clause
7 (iii).

8 (b) **PROHIBITION ON EXCESS CONTRIBUTIONS.**—
9 Section 530(b) of such Code is amended by adding at the
10 end the following new paragraph:

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

18 (c) **EFFECTIVE DATE.**—The amendments made by
19 this section shall apply to taxable years beginning after
20 December 31, 2014.

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

5 **SEC. 301. 529 PROGRAMS FOR PRE-KINDERGARTEN, ELE-**
6 **MENTARY, AND SECONDARY EDUCATION EX-**
7 **PENSES.**

8 (a) IN GENERAL.—Section 529(e)(3) of the Internal
9 Revenue Code of 1986 is amended—

10 (1) by redesignating subparagraph (B) as sub-
11 paragraph (C);

12 (2) by striking “QUALIFIED HIGHER EDU-
13 CATION EXPENSES” and all that follows through
14 “The term ‘qualified higher education expenses’
15 means—” and inserting the following: “QUALIFIED
16 EDUCATION EXPENSES.—

17 “(A) IN GENERAL.—The term ‘qualified
18 education expenses’ means—

19 “(i) qualified higher education ex-
20 penses, and

21 “(ii) qualified pre-kindergarten, ele-
22 mentary, and secondary education ex-
23 penses.

1 “(B) QUALIFIED HIGHER EDUCATION EX-
2 PENSES.—The term ‘qualified higher education
3 expenses’ means”; and

4 (3) by adding at the end the following new sub-
5 paragraphs:

6 “(D) QUALIFIED PRE-KINDERGARTEN, EL-
7 EMENTARY, AND SECONDARY EDUCATION EX-
8 PENSES.—The term ‘qualified pre-kindergarten,
9 elementary, and secondary education expenses’
10 means—

11 “(i) expenses for tuition, fees, aca-
12 demic tutoring, special needs services in
13 the case of a special needs beneficiary,
14 books, supplies, and other equipment which
15 are incurred in connection with the enroll-
16 ment or attendance of the designated bene-
17 ficiary of the trust as a pre-kindergarten,
18 elementary, or secondary school student at
19 a public, private, or religious school,

20 “(ii) expenses for room and board,
21 uniforms, transportation, and supple-
22 mentary items and services (including ex-
23 tended day programs) which are required
24 or provided by a public, private, or reli-

1 gious school in connection with such enroll-
2 ment or attendance, and

3 “(iii) expenses for the purchase of any
4 computer technology or equipment (as de-
5 fined in section 170(e)(6)(F)(i)) or Inter-
6 net access and related services, if such
7 technology, equipment, or services are to
8 be used by the beneficiary and the bene-
9 ficiary’s family during any of the years the
10 beneficiary is in school.

11 Clause (iii) shall not include expenses for com-
12 puter software designed for sports, games, or
13 hobbies unless the software is predominantly
14 educational in nature.

15 “(E) SCHOOL.—The term ‘school’ means
16 any school which provides pre-kindergarten, ele-
17 mentary, or secondary education (pre-kinder-
18 garten through grade 12), as determined under
19 State law. Such a school shall be treated as an
20 eligible educational institution for purposes of
21 subsection (b).”.

22 (b) CONFORMING AMENDMENTS.—Section 529 of
23 such Code is amended by striking “qualified higher edu-
24 cation” each place it appears in subsections (b) and (c)
25 and inserting “qualified education”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2014.

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