

117TH CONGRESS  
1ST SESSION

# H. R. 1770

To allow Federal funds appropriated for kindergarten through grade 12 education to follow the student.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 10, 2021

Mr. ROY (for himself, Mr. LAMALFA, Mr. RICE of South Carolina, Mr. DAVIDSON, Mr. BIGGS, Mr. GOHMERT, Mr. HICE of Georgia, Mr. NORMAN, Mr. DONALDS, Ms. HERRELL, Mr. MAST, and Mr. HARRIS) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To allow Federal funds appropriated for kindergarten through grade 12 education to 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 “Support Children Hav-  
5 ing Open Opportunities for Learning Act of 2021” or the  
6 “SCHOOL Act of 2021”.

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

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

7 **“PART H—FUNDS TO FOLLOW THE STUDENT**  
8 **“SEC. 8701. FUNDS TO FOLLOW THE STUDENT.**

9 “(a) IN GENERAL.—

10 “(1) FUNDS TO FOLLOW THE STUDENT.—Not-  
11 withstanding any other provision of law and to the  
12 extent permitted under State law, a State edu-  
13 cational agency shall allocate grant funds provided  
14 under titles I, III, IV, V, and VI, for the purposes  
15 of ensuring that funding under such titles follows  
16 children, whether learning in person or remotely, to  
17 the public school, private school, or home school they  
18 attend—

19 “(A) among the local educational agencies  
20 in the State based on the number of eligible  
21 children enrolled in the public schools operated  
22 by each local educational agency; and

23 “(B) directly to the eligible children,  
24 through education savings accounts, residing in  
25 the State who are enrolled in private schools or  
26 home schools.

1           “(2) ALLOWABLE USES OF FUNDS.—Funds al-  
2 located under paragraph (1) may be used for, but  
3 not limited to—

4           “(A) curriculum and curricular materials;

5           “(B) books or other instructional mate-  
6 rials;

7           “(C) technological educational materials;

8           “(D) online educational materials;

9           “(E) tutoring or educational classes out-  
10 side the home;

11          “(F) private school tuition;

12          “(G) extracurricular activities;

13          “(H) testing fees;

14          “(I) diagnostic tools; and

15          “(J) educational therapies for student with  
16 disabilities.

17          “(3) PLAN.—

18           “(A) IN GENERAL.—Each State that car-  
19 ries out allocations described in paragraph (1)  
20 shall establish a plan whereby the parent or  
21 guardian of each eligible child in the State will  
22 annually notify the relevant local educational  
23 agency of the public school or private school  
24 which the child will attend, or if the child will  
25 instead attend home school.

1           “(B) DATA COLLECTION.—Information  
2           collected under this section by the State shall  
3           be used for the sole purposes of calculating the  
4           allocation of funds and distribution of funds  
5           under this section.

6           “(b) DEFINITIONS.—In this section:

7           “(1) ELIGIBLE CHILD.—The term ‘eligible  
8           child’ means a child aged 5 to 17.

9           “(2) HOME SCHOOL.—The term ‘home school’  
10          means a home school as defined by the laws of the  
11          State in which the eligible child resides.

12          “(c) STUDENT ENROLLMENT IN PUBLIC SCHOOLS,  
13          PRIVATE SCHOOLS, AND HOME SCHOOLS.—

14          “(1) IDENTIFICATION OF ELIGIBLE CHIL-  
15          DREN.—On an annual basis, on a date to be deter-  
16          mined by the State educational agency, each local  
17          educational agency that receives grant funding in ac-  
18          cordance with subsection (a) shall inform the State  
19          educational agency of the number of eligible children  
20          enrolled in public schools served by the local edu-  
21          cational agency and private schools and home  
22          schools located in the school district served by the  
23          local educational agency in order to provide alloca-  
24          tions for each eligible child in equal amounts regard-  
25          less of where the child attends school in the State.

1           “(2) ALLOCATION TO LOCAL EDUCATIONAL  
2 AGENCIES AND ELIGIBLE CHILDREN.—Based on the  
3 identification of eligible children in paragraph (1),  
4 the State educational agency shall provide—

5           “(A) to a local educational agency an  
6 amount equal to the sum of the amount avail-  
7 able for each eligible child in the State multi-  
8 plied by the number of eligible children identi-  
9 fied by the local educational agency under para-  
10 graph (1) enrolled in public schools served by  
11 the local educational agency; and

12           “(B) to an eligible child residing in the  
13 State who is enrolled in a private school or  
14 home school, through an education savings ac-  
15 count, an amount equal to the sum of the  
16 amount available for an eligible child in the  
17 State.

18           “(3) DISTRIBUTION TO PUBLIC SCHOOLS.—  
19 Each local educational agency that receives funds  
20 under paragraph (2)(A) shall distribute such funds  
21 to the public schools served by the local educational  
22 agency—

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

1           “(B) in a manner that would, in the ab-  
2           sence of such Federal funds, supplement the  
3           funds made available from non-Federal re-  
4           sources for the education of pupils participating  
5           in programs under this Act, and not to sup-  
6           plant such funds (in accordance with the meth-  
7           od of determination described in section 1117).

8           “(4) DISTRIBUTION TO ELIGIBLE CHILDREN.—  
9           Each State that carries out allocations described in  
10          paragraph (1) shall distribute amounts to the eligi-  
11          ble children residing in that State who enroll in a  
12          private school or home school—

13                 “(A) through an education savings ac-  
14                 count, as described in paragraph (2)(B); and

15                 “(B) in a manner that would, in the ab-  
16                 sence of such Federal funds, supplement the  
17                 funds made available from non-Federal re-  
18                 sources for the education of pupils participating  
19                 in programs under this Act, and not to sup-  
20                 plant such funds (in accordance with the meth-  
21                 od of determination described in section 1117).

22          “(d) APPLICATION OF PARTICIPATION OF CHILDREN  
23          ENROLLED IN PRIVATE SCHOOLS.—The provisions of sec-  
24          tion 1116 shall apply to this section.

25          “(e) RULE OF CONSTRUCTION.—

1           “(1) **FEDERALLY FUNDED SCHOOL FOOD PRO-**  
2           **GRAMS.**—Nothing in this section shall be construed  
3           to preclude a child eligible for assistance under the  
4           free and reduced price school lunch program estab-  
5           lished under the Richard B. Russell National School  
6           Lunch Act (42 U.S.C. 1751 et seq.) from receiving  
7           assistance under such program.

8           “(2) **PROHIBITION OF CONTROL OVER NON-**  
9           **PUBLIC EDUCATION PROVIDERS.**—Nothing in this  
10          section shall permit, allow, encourage, or authorize  
11          Federal or State control over non-public education  
12          providers.”.

13 **SEC. 3. FEDERAL FUNDING UNDER THE INDIVIDUALS WITH**  
14                           **DISABILITIES EDUCATION ACT TO FOLLOW**  
15                           **THE STUDENT.**

16          Part A of the Individuals with Disabilities Education  
17          Act (20 U.S.C. 1401 et seq.) is amended by adding at  
18          the end the following:

19 **“SEC. 611. FUNDS TO FOLLOW THE STUDENT.**

20          “(a) **IN GENERAL.**—

21               “(1) **FUNDS TO FOLLOW THE STUDENT.**—Not-  
22               withstanding any other provision of law and to the  
23               extent permitted under State law, a State edu-  
24               cational agency shall allocate grant funds provided  
25               under this Act, for the purposes of ensuring that

1 funding under this Act follows children, whether  
2 learning in person or remotely, to the public school,  
3 private school, or home school they attend—

4 “(A) among the local educational agencies  
5 in the State based on the number of eligible  
6 children enrolled in the public schools operated  
7 by each local educational agency; and

8 “(B) directly to the eligible children,  
9 through education savings accounts, residing in  
10 that State who are enrolled in private schools or  
11 home schools.

12 “(2) ALLOWABLE USES OF FUNDS.—Funds al-  
13 located under paragraph (1) may be used for, but  
14 not limited to—

15 “(A) curriculum and curricular materials;

16 “(B) books or other instructional mate-  
17 rials;

18 “(C) technological educational materials;

19 “(D) online educational materials;

20 “(E) tutoring or educational classes out-  
21 side the home;

22 “(F) private school tuition;

23 “(G) extracurricular activities;

24 “(H) testing fees;

25 “(I) diagnostic tools; and



1           “(J) educational therapies for student with  
2           disabilities.

3           “(3) PLAN.—

4           “(A) IN GENERAL.—Each State that car-  
5           ries out allocations described in paragraph (1)  
6           shall establish a plan whereby the parent or  
7           guardian of each eligible child in the State will  
8           annually notify the relevant local educational  
9           agency of the public school or private school  
10          which the child will attend, or if the child will  
11          instead attend home school.

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

17          “(b) DEFINITIONS.—In this section:

18           “(1) ELIGIBLE CHILD.—The term ‘eligible  
19           child’ means a child with a disability who is eligible  
20           to receive special education and related services  
21           under this Act.

22           “(2) HOME SCHOOL.—The term ‘home school’  
23           means a home school as defined by the laws of the  
24           State in which the eligible child resides.

1       “(c) STUDENT ENROLLMENT IN PUBLIC SCHOOLS,  
2 PRIVATE SCHOOLS, AND HOME SCHOOLS.—

3               “(1) IDENTIFICATION OF ELIGIBLE CHIL-  
4 DREN.—On an annual basis, on a date to be deter-  
5 mined by the State educational agency, each local  
6 educational agency that receives grant funding in ac-  
7 cordance with subsection (a) shall inform the State  
8 educational agency of the number of eligible children  
9 enrolled in public schools served by the local edu-  
10 cational agency and private schools and home  
11 schools located in the school district served by the  
12 local educational agency in order to provide alloca-  
13 tions for each eligible child in equal amounts regard-  
14 less of where the child attends school in the State.

15               “(2) ALLOCATION TO LOCAL EDUCATIONAL  
16 AGENCIES AND ELIGIBLE CHILDREN.—Based on the  
17 identification of eligible children in paragraph (1),  
18 the State educational agency shall provide—

19                       “(A) to a local educational agency an  
20 amount equal to the sum of the amount avail-  
21 able for each eligible child in the State multi-  
22 plied by the number of eligible children identi-  
23 fied by the local educational agency under para-  
24 graph (1) enrolled in public schools served by  
25 the local educational agency; and

1           “(B) to an eligible child residing in the  
2           State who is enrolled in a private school or  
3           home school, through an education savings ac-  
4           count, an amount equal to the sum of the  
5           amount available for an eligible child in the  
6           State.

7           “(3) DISTRIBUTION TO PUBLIC SCHOOLS.—  
8           Each local educational agency that receives funds  
9           under paragraph (2)(A) shall distribute such funds  
10          to the public schools served by the local educational  
11          agency—

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

14                  “(B) in a manner that would, in the ab-  
15                  sence of such Federal funds, supplement the  
16                  funds made available from non-Federal re-  
17                  sources for the education of pupils participating  
18                  in programs under this Act, and not to sup-  
19                  plant such funds.

20          “(4) DISTRIBUTION TO ELIGIBLE CHILDREN.—  
21          Each State that carries out allocations described in  
22          paragraph (1) shall distribute amounts to the eligi-  
23          ble children residing in that State who enroll in a  
24          private school or home school—

1           “(A) through an education savings ac-  
2           count, as described in paragraph (2)(B); and

3           “(B) in a manner that would, in the ab-  
4           sence of such Federal funds, supplement the  
5           funds made available from non-Federal re-  
6           sources for the education of pupils participating  
7           in programs under this Act, and not to sup-  
8           plant such funds.

9           “(d) RULE OF CONSTRUCTION.—

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

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

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