

House GOP taxwriters plug section 529 expansions at hearing focused on expanding ‘educational freedom’

Republicans on the House Ways and Means Committee used an October 25 hearing on “educational freedom” as a forum to discuss various tax code changes that they say would expand school choice at the elementary and secondary levels and encourage entry into the skilled trades.

Smith: Build on TCJA changes

In his opening statement, Ways and Means Committee Chairman Jason Smith, R-Mo., noted the changes to the rules for tax-favored section 529 education savings plans that Republicans made in the Tax Cuts and Jobs Act (TCJA, P.L. 115-97)—particularly a provision that allows distributions from a section 529 account to fund a beneficiary’s tuition expenses, up to \$10,000, at an elementary or secondary public, private, or religious school. (Notably, unlike the vast majority of TCJA changes on the individual side of the tax code that are scheduled to sunset after 2025, this particular change was enacted on a permanent basis.)

URL: <https://www.congress.gov/115/plaws/publ97/PLAW-115publ97.pdf>

Calling that provision a “first step,” Smith went on to argue that it should be liberalized to permit the funding of other, nontuition expenses as well.

“[Section] 529 accounts could also be amended to cover other educational costs like books, tutoring to help kids catch up after multiple years of . . . virtual school, educational therapies for students with disabilities, and supplies for the many families now choosing to homeschool.” (Under the general 529 rules, other post-secondary education expenses such as student activity fees, books, supplies, and equipment required for enrollment or attendance are already considered “qualified higher education expenses.”)

Skilled trade and licensing programs: Several Republicans also spoke in favor of legislation that would allow 529 plans to cover the costs of skilled trade and licensing programs—in particular, the Freedom to Invest in Tomorrow’s Workforce Act (H.R. 1477), which was introduced in March by Rep. Robert Wittman, R-Va.

URL: <https://www.congress.gov/bill/118th-congress/house-bill/1477/text>

A witness at the hearing, Jerome Redmond, president and CEO of American Truck Training, based in Oklahoma City, told lawmakers that the bill would give “families who sponsor a 529 plan for their children, grandchildren, or other relatives . . . additional ways to use the funds they were able to set aside to get the education they need for a rewarding career.”

Relatedly, Chairman Smith also alluded to the Aviation Workforce Development Act (H.R. 1818), legislation introduced by GOP Rep. Mike Collins of Georgia that would make training at Federal Aviation Administration-certified commercial pilot and aircraft maintenance technician schools a qualified expense under the 529 rules.

URL: <https://www.congress.gov/bill/118th-congress/house-bill/1818>

“This issue has come up again and again at our field hearings and when the committee considered an [FAA funding] extension earlier this year,” Smith said.

New tax credit for contributions to organizations funding private school scholarships: GOP members of the panel also discussed the Educational Choice for Children Act (H.R. 531), introduced in January by Ways and Means Committee member Adrian Smith, R-Neb., which would provide tax credits (subject to a volume cap of \$10 billion per year) for individuals and businesses that contribute to tax-exempt “scholarship granting organizations” that fund scholarship awards for private education expenses at elementary and secondary schools.

URL: <https://www.congress.gov/bill/118th-congress/house-bill/531>

Democrats lambast GOP proposals

For their part, Democratic taxwriters sharply criticized the Republican measures, arguing that the benefits of the proposed tax breaks would flow predominantly to more affluent taxpayers and seek to chip away at the US public education system.

“Today’s hearing is another tangentially related distraction from the party that can’t even achieve what they are best at: cutting taxes for the wealthy and well-connected,” Richard Neal of Massachusetts, the panel’s ranking Democrat, remarked in his opening statement.

Rather than look to the tax code to promote educational opportunity, Neal instead spoke in favor of a recent White House initiative—the American Climate Corps—a nontax-focused program which he said would “train young people for the high-demand skills that will drive the clean energy economy.”

URL: <https://www.whitehouse.gov/briefing-room/statements-releases/2023/09/20/fact-sheet-biden-harris-administration-launches-american-climate-corps-to-train-young-people-in-clean-energy-conservation-and-climate-resilience-skills-create-good-paying-jobs-and-tackle-the-climate/>

Rep. Danny Davis, D-Ill., did suggest one tax break expansion he could support—namely, doubling the current-law exclusion for employer-provided educational assistance under tax code section 127 that is currently capped at \$5,250 per year. Otherwise, like ranking member Neal, he panned the GOP’s tax proposals.

“Rather than advancing policies supporting all charities, today’s hearing seem[s] to myopically supercharge only giving to those private education programs,” said Davis.

GOP messaging

Given the political dynamics on display at the hearing—and the current reality of divided government—it seems unlikely that the proposals touted by Republican taxwriters will be included in any tax legislation that makes it to President Biden’s desk in the current Congress. (See related coverage in this issue for the latest on the House GOP speaker election and the uncertainty surrounding the fate of tax legislation of any kind in the coming months).

But even if these proposals are unlikely to become law in the near term, they give a clear indication of where the GOP might take education-focused tax policy should the party amass more power in Washington following the 2024 presidential and congressional elections.

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