

Union Calendar No. 600

118TH CONGRESS
2^D SESSION

H. R. 9462

[Report No. 118-707, Part I]

To amend the Internal Revenue Code of 1986 to allow a credit against tax for charitable donations to nonprofit organizations providing education scholarships to qualified elementary and secondary students.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 6, 2024

Mr. SMITH of Nebraska (for himself, Mr. OWENS, Ms. FOXX, Mr. KELLY of Pennsylvania, Mr. YAKYM, Mr. JORDAN, Mr. RESCHENTHALER, Mr. DONALDS, Mr. FEENSTRA, Ms. MALLIOTAKIS, and Ms. TENNEY) 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

OCTOBER 4, 2024

Additional sponsors: Mrs. MILLER-MEEKS, Ms. STEFANIK, Ms. LETLOW, Mr. SCALISE, Mr. WALBERG, Mr. PENCE, Mr. WILLIAMS of New York, Mr. LAWLER, Mr. MOOLENAAR, Mr. WENSTRUP, Mr. FONG, Mr. VAN DREW, and Mr. KEAN of New Jersey

OCTOBER 4, 2024

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

OCTOBER 4, 2024

Committee on Education and the Workforce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on September 6, 2024]

A BILL

To amend the Internal Revenue Code of 1986 to allow a credit against tax for charitable donations to nonprofit organizations providing education scholarships to qualified elementary and secondary students.

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 “Educational Choice for*
5 *Children Act of 2024”.*

6 **SEC. 2. TAX CREDIT FOR CONTRIBUTIONS OF INDIVIDUALS**
7 **TO SCHOLARSHIP GRANTING ORGANIZA-**
8 **TIONS.**

9 *(a) ALLOWANCE OF CREDIT.—*

10 *(1) IN GENERAL.—Subpart A of part IV of sub-*
11 *chapter A of chapter 1 of the Internal Revenue Code*
12 *of 1986 is amended by inserting after section 25E the*
13 *following new section:*

14 **“SEC. 25F. QUALIFIED ELEMENTARY AND SECONDARY EDU-**
15 **CATION SCHOLARSHIPS.**

16 *“(a) ALLOWANCE OF CREDIT.—In the case of an indi-*
17 *vidual, there shall be allowed as a credit against the tax*
18 *imposed by this chapter for the taxable year an amount*
19 *equal to the aggregate amount of qualified contributions*
20 *made by the taxpayer during the taxable year.*

21 *“(b) LIMITATIONS.—*

22 *“(1) IN GENERAL.—The credit allowed under*
23 *subsection (a) to any taxpayer for any taxable year*
24 *shall not exceed an amount equal to the greater of—*

1 “(A) 10 percent of the adjusted gross income
2 of the taxpayer for the taxable year, or

3 “(B) \$5,000.

4 “(2) *ALLOCATION OF VOLUME CAP.*—The credit
5 allowed under subsection (a) to any taxpayer for any
6 taxable year shall not exceed the amount of the vol-
7 ume cap allocated by the Secretary to such taxpayer
8 under subsection (g) with respect to qualified con-
9 tributions made by the taxpayer during the taxable
10 year.

11 “(3) *REDUCTION BASED ON STATE CREDIT.*—The
12 amount allowed as a credit under subsection (a) for
13 a taxable year shall be reduced by the amount allowed
14 as a credit on any State tax return of the taxpayer
15 for qualified contributions made by the taxpayer dur-
16 ing the taxable year.

17 “(c) *DEFINITIONS.*—For purposes of this section—

18 “(1) *ELIGIBLE STUDENT.*—The term ‘eligible
19 student’ means an individual who—

20 “(A) is a member of a household with an
21 income which is not greater than 300 percent of
22 the area median gross income (as such term is
23 used in section 42), and

24 “(B) is eligible to enroll in a public elemen-
25 tary or secondary school.

1 “(2) *QUALIFIED CONTRIBUTION.*—*The term*
2 *‘qualified contribution’ means a charitable contribu-*
3 *tion (as defined by section 170(c)) to a scholarship*
4 *granting organization in the form of cash or market-*
5 *able securities.*

6 “(3) *QUALIFIED ELEMENTARY OR SECONDARY*
7 *EDUCATION EXPENSE.*—*The term ‘qualified elemen-*
8 *tary or secondary education expense’ means the fol-*
9 *lowing expenses in connection with enrollment or at-*
10 *tendance at, or for students enrolled at or attending,*
11 *an elementary or secondary public, private, or reli-*
12 *gious school:*

13 “(A) *Tuition.*

14 “(B) *Curriculum and curricular materials.*

15 “(C) *Books or other instructional materials.*

16 “(D) *Online educational materials.*

17 “(E) *Tuition for tutoring or educational*
18 *classes outside of the home, including at a tutor-*
19 *ing facility, but only if the tutor or instructor is*
20 *not related to the student and—*

21 “(i) *is licensed as a teacher in any*
22 *State,*

23 “(ii) *has taught at an eligible edu-*
24 *cational institution, or*

1 “(iii) is a subject matter expert in the
2 relevant subject.

3 “(F) Fees for a nationally standardized
4 norm-referenced achievement test, an advanced
5 placement examination, or any examinations re-
6 lated to college or university admission.

7 “(G) Fees for dual enrollment in an institu-
8 tion of higher education.

9 “(H) Educational therapies for students
10 with disabilities provided by a licensed or ac-
11 credited practitioner or provider, including occu-
12 pational, behavioral, physical, and speech-lan-
13 guage therapies.

14 Such term shall include expenses for the purposes de-
15 scribed in subparagraphs (A) through (H) in connec-
16 tion with a homeschool (whether treated as a
17 homeschool or a private school for purposes of appli-
18 cable State law).

19 “(4) SCHOLARSHIP GRANTING ORGANIZATION.—
20 The term ‘scholarship granting organization’ means
21 any organization—

22 “(A) which—

23 “(i) is described in section 501(c)(3)
24 and exempt from tax under section 501(a),
25 and

1 “(ii) is not a private foundation,

2 “(B) substantially all of the activities of
3 which are providing scholarships for qualified el-
4 ementary or secondary education expenses of eli-
5 gible students,

6 “(C) which prevents the co-mingling of
7 qualified contributions with other amounts by
8 maintaining one or more separate accounts ex-
9 clusively for qualified contributions, and

10 “(D) which either—

11 “(i) meets the requirements of sub-
12 section (d), or

13 “(ii) pursuant to State law, was able
14 (as of the date of the enactment of this sec-
15 tion) to receive contributions that are eligi-
16 ble for a State tax credit if such contribu-
17 tions are used by the organization to pro-
18 vide scholarships to individual elementary
19 and secondary students, including scholar-
20 ships for attending private schools.

21 “(d) *REQUIREMENTS FOR SCHOLARSHIP GRANTING*
22 *ORGANIZATIONS.*—

23 “(1) *IN GENERAL.*—An organization meets the
24 requirements of this subsection if—

1 “(A) such organization provides scholar-
2 ships to 2 or more students, provided that not all
3 such students attend the same school,

4 “(B) such organization does not provide
5 scholarships for any expenses other than quali-
6 fied elementary or secondary education expenses,

7 “(C) such organization provides a scholar-
8 ship to eligible students with a priority for—

9 “(i) students awarded a scholarship the
10 previous school year, and

11 “(ii) after application of clause (i),
12 any such students who have a sibling who
13 was awarded a scholarship from such orga-
14 nization,

15 “(D) such organization does not earmark or
16 set aside contributions for scholarships on behalf
17 of any particular student,

18 “(E) such organization takes appropriate
19 steps to verify the annual household income and
20 family size of eligible students to whom it
21 awards scholarships, and limits them to a mem-
22 ber of a household for which the income does not
23 exceed the amount established under subsection
24 (c)(1)(A),

25 “(F) such organization—

1 “(i) obtains from an independent cer-
2 tified public accountant annual financial
3 and compliance audits, and

4 “(ii) certifies to the Secretary (at such
5 time, and in such form and manner, as the
6 Secretary may prescribe) that the audit de-
7 scribed in clause (i) has been completed,
8 and

9 “(G) no officer or board member of such or-
10 ganization has been convicted of a felony.

11 “(2) *INCOME VERIFICATION.*—For purposes of
12 paragraph (1)(E), review of all of the following (as
13 applicable) shall be treated as satisfying the require-
14 ment to take appropriate steps to verify annual
15 household income:

16 “(A) Federal and State income tax returns
17 or tax return transcripts with applicable sched-
18 ules for the taxable year prior to application.

19 “(B) Income reporting statements for tax
20 purposes or wage and income transcripts from
21 the Internal Revenue Service.

22 “(C) Notarized income verification letter
23 from employers.

24 “(D) Unemployment or workers compensa-
25 tion statements.

1 “(E) Budget letters regarding public assist-
2 ance payments and Supplemental Nutrition As-
3 sistance Program (SNAP) payments including a
4 list of household members.

5 “(3) *INDEPENDENT CERTIFIED PUBLIC ACCOUNT-*
6 *ANT.*—For purposes of paragraph (1)(F), the term
7 ‘independent certified public accountant’ means, with
8 respect to an organization, a certified public account-
9 ant who is not a person described in section
10 465(b)(3)(A) with respect to such organization or any
11 employee of such organization.

12 “(4) *PROHIBITION ON SELF-DEALING.*—

13 “(A) *IN GENERAL.*—A scholarship granting
14 organization may not award a scholarship to
15 any disqualified person.

16 “(B) *DISQUALIFIED PERSON.*—For purposes
17 of this paragraph, a disqualified person shall be
18 determined pursuant to rules similar to the rules
19 of section 4946.

20 “(e) *DENIAL OF DOUBLE BENEFIT.*—Any qualified
21 contribution for which a credit is allowed under this section
22 shall not be taken into account as a charitable contribution
23 for purposes of section 170.

24 “(f) *CARRYFORWARD OF UNUSED CREDIT.*—

1 “(1) *IN GENERAL.*—*If the credit allowable under*
2 *subsection (a) for any taxable year exceeds the limita-*
3 *tion imposed by section 26(a) for such taxable year*
4 *reduced by the sum of the credits allowable under this*
5 *subpart (other than this section, section 23, and sec-*
6 *tion 25D), such excess shall be carried to the suc-*
7 *ceeding taxable year and added to the credit allowable*
8 *under subsection (a) for such taxable year.*

9 “(2) *LIMITATION.*—*No credit may be carried for-*
10 *ward under this subsection to any taxable year fol-*
11 *lowing the fifth taxable year after the taxable year in*
12 *which the credit arose. For purposes of the preceding*
13 *sentence, credits shall be treated as used on a first-in*
14 *first-out basis.*

15 “(g) *VOLUME CAP.*—

16 “(1) *IN GENERAL.*—*The volume cap applicable*
17 *under this section shall be \$5,000,000,000 for each of*
18 *calendar years 2025 through 2028, and zero for cal-*
19 *endar years thereafter. Such amount shall be allocated*
20 *by the Secretary as provided in paragraph (2) to tax-*
21 *payers with respect to qualified contributions made*
22 *by such taxpayers, except that 10 percent of such*
23 *amount shall be divided evenly among the States, and*
24 *shall be available with respect to individuals residing*
25 *in such States.*

1 “(2) *FIRST-COME, FIRST-SERVE.*—For purposes
2 of applying the volume cap under this section, such
3 volume cap for any calendar year shall be allocated
4 by the Secretary on a first-come, first-serve basis, as
5 determined based on the time (during such calendar
6 year) at which the taxpayer made the qualified con-
7 tribution with respect to which the allocation is made.
8 The Secretary shall not make any allocation of vol-
9 ume cap for any calendar year after December 31 of
10 such calendar year.

11 “(3) *REAL-TIME INFORMATION.*—For purposes of
12 this section, the Secretary shall develop a system to
13 track the amount of qualified contributions made dur-
14 ing the calendar year for which a credit may be
15 claimed under this section, with such information to
16 be updated in real time.

17 “(4) *ANNUAL INCREASES.*—

18 “(A) *IN GENERAL.*—In the case of the cal-
19 endar year after a high use calendar year, the
20 dollar amount otherwise in effect under sub-
21 section (a) for such calendar year shall be equal
22 to 105 percent of the dollar amount in effect for
23 such high use calendar year.

24 “(B) *HIGH USE CALENDAR YEAR.*—For
25 purposes of this subsection, the term ‘high use

1 *calendar year’ means any calendar year for*
 2 *which 90 percent or more of the volume cap in*
 3 *effect for such calendar year under subsection (a)*
 4 *is allocated to taxpayers.*

5 “(C) *PREVENTION OF DECREASES IN AN-*
 6 *NUAL VOLUME CAP.—The volume cap in effect*
 7 *under subsection (a) for any calendar year shall*
 8 *not be less than the volume cap in effect under*
 9 *such subsection for the preceding calendar year.*

10 “(D) *PUBLICATION OF ANNUAL VOLUME*
 11 *CAP.—The Secretary shall make publicly avail-*
 12 *able the dollar amount of the volume cap in ef-*
 13 *fect under subsection (a) for each calendar year.*

14 “(5) *STATES.—For purposes of this subsection,*
 15 *the term ‘State’ includes the District of Columbia.”.*

16 (2) *CONFORMING AMENDMENTS.—*

17 (A) *Section 25(e)(1)(C) of such Code is*
 18 *amended by striking “and 25D” and inserting*
 19 *“25D, and 25F”.*

20 (B) *The table of sections for subpart A of*
 21 *part IV of subchapter A of chapter 1 of such*
 22 *Code is amended by inserting after the item re-*
 23 *lating to section 25E the following new item:*

“Sec. 25F. Qualified elementary and secondary education scholarships.”.

24 (b) *FAILURE OF SCHOLARSHIP GRANTING ORGANIZA-*
 25 *TIONS TO MAKE DISTRIBUTIONS.—*

1 (1) *IN GENERAL.*—Chapter 42 of such Code is
 2 amended by adding at the end the following new sub-
 3 chapter:

4 **“Subchapter I—Scholarship Granting**
 5 **Organizations**

“Sec. 4969. Failure to distribute receipts.

6 **“SEC. 4969. FAILURE TO DISTRIBUTE RECEIPTS.**

7 “(a) *IN GENERAL.*—In the case of any scholarship
 8 granting organization (as defined in section 25F) which has
 9 been determined by the Secretary to have failed to satisfy
 10 the requirement under subsection (b) for any taxable year,
 11 any contribution made to such organization during the first
 12 taxable year beginning after the date of such determination
 13 shall not be treated as a qualified contribution (as defined
 14 in section 25F(c)(2)) for purposes of section 25F.

15 “(b) *REQUIREMENT.*—The requirement described in
 16 this subsection is that the amount of receipts of the scholar-
 17 ship granting organization for the taxable year which are
 18 distributed before the distribution deadline with respect to
 19 such receipts shall not be less than the required distribution
 20 amount with respect to such taxable year.

21 “(c) *DEFINITIONS.*—For purposes of this section—

22 “(1) *REQUIRED DISTRIBUTION AMOUNT.*—

23 “(A) *IN GENERAL.*—The required distribu-
 24 tion amount with respect to a taxable year is the

1 amount equal to 100 percent of the total receipts
2 of the scholarship granting organization for such
3 taxable year—

4 “(i) reduced by the sum of such re-
5 ceipts that are retained for reasonable ad-
6 ministrative expenses for the taxable year or
7 are carried to the succeeding taxable year
8 under subparagraph (C), and

9 “(ii) increased by the amount of the
10 carryover under subparagraph (C) from the
11 preceding taxable year.

12 “(B) *SAFE HARBOR FOR REASONABLE AD-*
13 *MINISTRATIVE EXPENSES.*—For purposes of sub-
14 *paragraph (A)(i), if the percentage of total re-*
15 *ceipts of a scholarship granting organization for*
16 *a taxable year which are used for administrative*
17 *purposes is equal to or less than 10 percent, such*
18 *expenses shall be deemed to be reasonable for*
19 *purposes of such subparagraph.*

20 “(C) *CARRYOVER.*—With respect to the
21 amount of the total receipts of a scholarship
22 granting organization with respect to any tax-
23 able year, an amount not greater than 15 per-
24 cent of such amount may, at the election of such

1 organization, be carried to the succeeding taxable
2 year.

3 “(2) *DISTRIBUTIONS.*—The term ‘distribution’
4 includes amounts which are formally committed but
5 not distributed. A formal commitment described in
6 the preceding sentence may include contributions set
7 aside for eligible students for more than one year.

8 “(3) *DISTRIBUTION DEADLINE.*—The distribu-
9 tion deadline with respect to receipts for a taxable
10 year is the first day of the third taxable year fol-
11 lowing the taxable year in which such receipts are re-
12 ceived by the scholarship granting organization.”.

13 (2) *CLERICAL AMENDMENT.*—The table of sub-
14 chapters for chapter 42 of such Code is amended by
15 adding at the end the following new item:

 “SUBCHAPTER I. SCHOLARSHIP GRANTING ORGANIZATIONS”.

16 (c) *EFFECTIVE DATE.*—The amendments made by this
17 section shall apply to taxable years ending after December
18 31, 2024.

19 **SEC. 3. EXEMPTION FROM GROSS INCOME FOR SCHOLAR-**
20 **SHIPS FOR QUALIFIED ELEMENTARY OR SEC-**
21 **ONDARY EDUCATION EXPENSES OF ELIGIBLE**
22 **STUDENTS.**

23 (a) *IN GENERAL.*—Part III of subchapter B of chapter
24 1 of the Internal Revenue Code of 1986 is amended by in-
25 serting before section 140 the following new section:

1 **“SEC. 139J. SCHOLARSHIPS FOR QUALIFIED ELEMENTARY**
2 **OR SECONDARY EDUCATION EXPENSES OF**
3 **ELIGIBLE STUDENTS.**

4 *“(a) IN GENERAL.—In the case of an individual, gross*
5 *income shall not include any amounts provided to any de-*
6 *pendent of such individual pursuant to a scholarship for*
7 *qualified elementary or secondary education expenses of an*
8 *eligible student which is provided by a scholarship granting*
9 *organization.*

10 *“(b) DEFINITIONS.—In this section, the terms ‘quali-*
11 *fied elementary or secondary education expense’, ‘eligible*
12 *student’, and ‘scholarship granting organization’ have the*
13 *same meaning given such terms under section 25F(c).”.*

14 *(b) CONFORMING AMENDMENT.—The table of sections*
15 *for part III of subchapter B of chapter 1 of the Internal*
16 *Revenue Code of 1986 is amended by inserting before the*
17 *item relating to section 140 the following new item:*

*“Sec. 139J. Scholarships for qualified elementary or secondary education expenses
of eligible students.”.*

18 *(c) EFFECTIVE DATE.—The amendments made by this*
19 *section shall apply to amounts received after December 31,*
20 *2024, in taxable years ending after such date.*

21 **SEC. 4. ORGANIZATIONAL AND PARENTAL AUTONOMY.**

22 *(a) PROHIBITION OF CONTROL OVER SCHOLARSHIP*
23 *ORGANIZATIONS.—*

24 *(1) IN GENERAL.—*

1 (A) *TREATMENT.*—A scholarship granting
2 organization shall not, by virtue of participation
3 under any provision of this Act or any amend-
4 ment made by this Act, be regarded as acting on
5 behalf of any governmental entity.

6 (B) *NO GOVERNMENTAL CONTROL.*—Nothing
7 in this Act, or any amendment made by this Act,
8 shall be construed to permit, allow, encourage, or
9 authorize any Federal, State, or local govern-
10 ment entity, or officer or employee thereof, to
11 mandate, direct, or control any aspect of any
12 scholarship granting organization.

13 (C) *MAXIMUM FREEDOM.*—To the extent
14 permissible by law, this Act, and any amend-
15 ment made by this Act, shall be construed to
16 allow scholarship granting organizations max-
17 imum freedom to provide for the needs of the
18 participants without governmental control.

19 (2) *PROHIBITION OF CONTROL OVER NON-PUBLIC*
20 *SCHOOLS.*—

21 (A) *NO GOVERNMENTAL CONTROL.*—Nothing
22 in this Act, or any amendment made by this Act,
23 shall be construed to permit, allow, encourage, or
24 authorize any Federal, State, or local govern-
25 ment entity, or officer or employee thereof, to

1 *mandate, direct, or control any aspect of any*
2 *private or religious elementary or secondary edu-*
3 *cation institution.*

4 *(B) NO EXCLUSION OF PRIVATE OR RELI-*
5 *GIIOUS SCHOOLS.—No Federal, State, or local*
6 *government entity, or officer or employee thereof,*
7 *shall impose or permit the imposition of any*
8 *conditions or requirements that would exclude or*
9 *operate to exclude educational expenses at pri-*
10 *vate or religious elementary and secondary edu-*
11 *cation institutions from being considered quali-*
12 *fied elementary or secondary education expenses.*

13 *(C) NO EXCLUSION OF QUALIFIED EX-*
14 *PENSES DUE TO INSTITUTION'S RELIGIOUS*
15 *CHARACTER OR AFFILIATION.—No Federal,*
16 *State, or local government entity, or officer or*
17 *employee thereof, shall exclude, discriminate*
18 *against, or otherwise disadvantage any elemen-*
19 *tary or secondary education institution with re-*
20 *spect to qualified elementary or secondary edu-*
21 *cation expenses at that institution based in*
22 *whole or in part on the institution's religious*
23 *character or affiliation, including religiously*
24 *based or mission-based policies or practices.*

1 (3) *PARENTAL RIGHTS TO USE SCHOLAR-*
2 *SHIPS.—No Federal, State, or local government enti-*
3 *ty, or officer or employee thereof, shall disfavor or dis-*
4 *courage the use of scholarships granted by partici-*
5 *pating scholarship granting organizations for quali-*
6 *fied elementary or secondary education expenses at*
7 *private or nonprofit elementary and secondary edu-*
8 *cation institutions, including faith-based schools.*

9 (4) *PARENTAL RIGHT TO INTERVENE.—In any*
10 *action filed in any State or Federal court which chal-*
11 *lenges the constitutionality (under the constitution of*
12 *such State or the Constitution of the United States)*
13 *of any provision of this Act (or any amendment made*
14 *by this Act), any parent of an eligible student who*
15 *has received a scholarship from a scholarship grant-*
16 *ing organization shall have the right to intervene in*
17 *support of the constitutionality of such provision or*
18 *amendment. To avoid duplication of efforts and re-*
19 *duce the burdens placed on the parties to the action,*
20 *the court in any such action may require interveners*
21 *taking similar positions to file joint papers or to be*
22 *represented by a single attorney at oral argument,*
23 *provided that the court does not require such*
24 *intervenors to join any brief filed on behalf of any*
25 *State which is a defendant in such action.*

1 (b) *DEFINITIONS.*—For purposes of this section, the
2 terms “eligible student”, “scholarship granting organiza-
3 tion”, and “qualified elementary or secondary education ex-
4 pense” shall have the same meanings given such terms
5 under section 25F(c) of the Internal Revenue Code of 1986
6 (as added by section 2(a) of this Act).

Union Calendar No. 600

118TH CONGRESS
2^D SESSION

H. R. 9462

[Report No. 118-707, Part I]

A BILL

To amend the Internal Revenue Code of 1986 to allow a credit against tax for charitable donations to nonprofit organizations providing education scholarships to qualified elementary and secondary students.

OCTOBER 4, 2024

Reported from the Committee on Ways and Means with
an amendment

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Committee on Education and the Workforce discharged;
committed to the Committee of the Whole House on
the State of the Union and ordered to be printed