

116TH CONGRESS  
2D SESSION

# S. 4505

To provide one-time grants to parents and guardians for student education expenses, to establish emergency education freedom grants, and to provide tax credits for donations to eligible scholarship-granting organizations, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2020

Mr. CRUZ introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To provide one-time grants to parents and guardians for student education expenses, to establish emergency education freedom grants, and to provide tax credits for donations to eligible scholarship-granting organizations, 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 “Coronavirus Emer-  
5 gency Education Grants Act”.

1 **SEC. 2. GRANTS TO PARENTS AND GUARDIANS FOR STU-**  
2 **DENT EDUCATION EXPENSES.**

3 (a) IN GENERAL.—The Secretary, in consultation  
4 with the Secretary of Education, shall establish a program  
5 to make one-time direct payments to parents or guardians  
6 to offset the educational expenses that such individuals in-  
7 curred in educating their children during the period of  
8 March 2020 to June 2021.

9 (b) CONTENTS OF PROGRAM.—The program carried  
10 out under subsection (a) shall have the following require-  
11 ments:

12 (1) The Secretary shall make only one payment  
13 for each child. Such payment will be made to the  
14 child's legal parent or guardian. Such payment shall  
15 be the lesser of \$10,000 or the combined actual past  
16 and future out-of-pocket educational expenses in-  
17 curred, or that will be incurred, by the legal parent  
18 or guardian for his or her child's education during  
19 the period of March 2020 to June 2021.

20 (2) The Secretary shall only make a payment to  
21 a parent or guardian who is a citizen of the United  
22 States or lawfully residing in the United States.

23 (3) The Secretary shall only make a payment to  
24 a parent or guardian who is the legal parent or  
25 guardian of the child.

1           (4) The Secretary, in consultation with the Sec-  
2           retary of Education, shall establish a web portal in  
3           which the legal parent or guardian of a child may  
4           apply to receive this one-time payment. The Sec-  
5           retary shall request such information as is necessary  
6           to—

7                   (A) establish a parent or guardian’s total  
8                   out-of-pocket costs for educating his or her  
9                   child during the period of March 2020 to June  
10                  2021;

11                  (B) establish the parent or guardian’s  
12                  identity, establish the parent or guardian’s citi-  
13                  zenship or lawful resident status;

14                  (C) establish that parent or guardian is  
15                  the legal parent or guardian of the child and  
16                  the child’s identity; and

17                  (D) establish and maintain the program  
18                  and prevent fraud, waste, or abuse of program  
19                  payments and funds.

20           (5) The Secretary shall only make payments to  
21           legal parents and guardians that have applied  
22           through the web portal and provided such informa-  
23           tion as required by the Secretary, in consultation  
24           with the Secretary of Education. The web portal

1 shall be established within 60 days of the date of en-  
2 actment of this Act.

3 (6) The Secretary shall require parents or  
4 guardians who have received a payment from the  
5 program to maintain records of how such individuals  
6 spent the payment. The Secretary shall develop pro-  
7 cedures to audit such records, mitigate fraud, waste,  
8 and abuse within the program, and recoup program  
9 funds and payments from individuals who have com-  
10 mitted fraud, waste, or abuse.

11 (c) DEFINITIONS.—In this section:

12 (1) EDUCATIONAL EXPENSES.—The term “edu-  
13 cational expenses”—

14 (A) means—

15 (i) tuition for elementary or secondary  
16 education;

17 (ii) elementary or secondary education  
18 curriculum and curricular materials;

19 (iii) books or other instructional mate-  
20 rials for elementary or secondary edu-  
21 cation;

22 (iv) online elementary or secondary  
23 education educational materials and ex-  
24 penses incurred to access these online edu-  
25 cational materials;

1 (v) tuition for tutoring or elementary  
2 or secondary educational classes outside of  
3 the home, including at a tutoring facility,  
4 but only if the tutor or instructor is not re-  
5 lated to the student and—

6 (I) is licensed as a teacher in any  
7 State;

8 (II) has taught at an eligible edu-  
9 cational institution as established by  
10 the Secretary; or

11 (III) is a subject matter expert in  
12 the relevant subject as established by  
13 the Secretary;

14 (vi) fees for a nationally standardized  
15 norm-referenced achievement test, an ad-  
16 vanced placement examination, or any ex-  
17 amination related to admission to an insti-  
18 tution of higher education;

19 (vii) fees for dual enrollment in an in-  
20 stitution of higher education; and

21 (viii) educational therapies for stu-  
22 dents with disabilities provided by a li-  
23 censed or accredited practitioner or pro-  
24 vider, including occupational, behavioral,

1 physical, and speech-language therapies;  
2 and

3 (B) includes expenses for the purposes de-  
4 scribed in clauses (i) through (viii) of subpara-  
5 graph (A) in connection with a homeschool  
6 (whether treated as a homeschool or a private  
7 school for purposes of applicable State law).

8 (2) SECRETARY.—The term “Secretary” means  
9 the Secretary of the Treasury or the Secretary’s del-  
10 egate.

11 (d) AUTHORIZATION AND APPROPRIATION.—

12 (1) IN GENERAL.—There are authorized to be  
13 appropriated, and there are appropriated, out of any  
14 amounts in the Treasury not otherwise appropriated,  
15 such sums as are necessary to enable the Secretary,  
16 in consultation with the Secretary of Education, to  
17 establish and carry out this program.

18 (2) EMERGENCY DESIGNATION.—

19 (A) IN GENERAL.—The amounts provided  
20 by this section are designated as an emergency  
21 requirement pursuant to section 4(g) of the  
22 Statutory Pay-As-You-Go Act of 2010 (2  
23 U.S.C. 933(g)).

24 (B) DESIGNATION IN SENATE.—In the  
25 Senate, this section is designated as an emer-

1           gency requirement pursuant to section 4112(a)  
 2           of H. Con. Res. 71 (115th Congress), the con-  
 3           current resolution on the budget for fiscal year  
 4           2018.

5 **SEC. 3. EDUCATION FREEDOM SCHOLARSHIPS AND OPPOR-**  
 6   **TUNITY.**

7           (a) EMERGENCY EDUCATION FREEDOM GRANTS.—

8                   (1) DEFINITIONS.—In this subsection:

9                                   (A) DEFINITIONS FROM THE INTERNAL  
 10                                   REVENUE CODE OF 1986.—The definitions in  
 11                                   section 25E(c) of the Internal Revenue Code of  
 12                                   1986, as added by subsection (b), shall apply to  
 13                                   this subsection, except as otherwise provided.

14                                   (B) EMERGENCY EDUCATION FREEDOM  
 15                                   GRANT FUNDS.—The term “emergency edu-  
 16                                   cation freedom grant funds” means the amount  
 17                                   of funds available under paragraph (2)(A) for  
 18                                   this subsection that are not reserved under  
 19                                   paragraph (3)(A)(i).

20                                   (C) SECRETARY.—The term “Secretary”  
 21                                   means the Secretary of Education.

22                                   (D) STATE.—The term “State” means  
 23                                   each of the 50 States, the District of Columbia,  
 24                                   and the Commonwealth of Puerto Rico.

25                   (2) GRANTS.—

1 (A) PROGRAM AUTHORIZED.—From any  
2 amounts appropriated for section 18003 of divi-  
3 sion B of the CARES Act (Public Law 116–  
4 136) on or after the date of enactment of this  
5 Act, the Secretary shall, notwithstanding any  
6 other provision of title XVIII of division B of  
7 the CARES Act, use 10 percent of such  
8 amounts to carry out paragraph (3) and award  
9 emergency education freedom grants to States  
10 with approved applications, in order to enable  
11 the States to award subgrants to eligible schol-  
12 arship-granting organizations under paragraph  
13 (4).

14 (B) TIMING.—The Secretary shall make  
15 the allotments required under this paragraph by  
16 not later than 30 days after the date of enact-  
17 ment of this Act.

18 (3) RESERVATION AND ALLOTMENTS.—

19 (A) IN GENERAL.—From the amounts  
20 made available under paragraph (2)(A), the  
21 Secretary shall—

22 (i) reserve—

23 (I) one-half of 1 percent for allot-  
24 ments for the United States Virgin Is-  
25 lands, Guam, American Samoa, and



1 the Commonwealth of the Northern  
2 Mariana Islands, to be distributed  
3 among those outlying areas on the  
4 basis of their relative need, as deter-  
5 mined by the Secretary, in accordance  
6 with the purpose of this subsection;  
7 and

8 (II) one-half of 1 percent of such  
9 amounts for the Secretary of the Inte-  
10 rior, acting through the Bureau of In-  
11 dian Education, to be used to provide  
12 subgrants described in paragraph (4)  
13 to eligible scholarship-granting organi-  
14 zations that serve students attending  
15 elementary schools or secondary  
16 schools operated or funded by the Bu-  
17 reau of Indian Education; and

18 (ii) subject to subparagraph (B), allot  
19 each State that submits an approved appli-  
20 cation under this subsection the sum of—

21 (I) the amount that bears the  
22 same relation to 20 percent of the  
23 emergency education freedom grant  
24 funds as the number of individuals  
25 aged 5 through 17 in the State, as de-

1           terminated by the Secretary on the  
2           basis of the most recent satisfactory  
3           data, bears to the number of those in-  
4           dividuals, as so determined, in all  
5           such States that submitted approved  
6           applications; and

7                         (II) an amount that bears the  
8           same relationship to 80 percent of the  
9           emergency education freedom grant  
10          funds as the number of individuals  
11          aged 5 through 17 from families with  
12          incomes below the poverty line in the  
13          State, as determined by the Secretary  
14          on the basis of the most recent satis-  
15          factory data, bears to the number of  
16          those individuals, as so determined, in  
17          all such States that submitted ap-  
18          proved applications.

19                         (B) MINIMUM ALLOTMENT.—No State  
20          shall receive an allotment under this paragraph  
21          for a fiscal year that is less than one-half of 1  
22          percent of the emergency education freedom  
23          grant funds available for such fiscal year.

24                         (4) SUBGRANTS TO ELIGIBLE SCHOLARSHIP-  
25          GRANTING ORGANIZATIONS.—

1 (A) IN GENERAL.—A State that receives  
2 an allotment under this subsection shall use the  
3 allotment to award subgrants, on a basis deter-  
4 mined appropriate by the State, to eligible  
5 scholarship-granting organizations in the State.

6 (B) INITIAL TIMING.—

7 (i) STATES WITH EXISTING TAX  
8 CREDIT SCHOLARSHIP PROGRAM.—By not  
9 later than 30 days after receiving an allot-  
10 ment under paragraph (3)(A)(ii), a State  
11 with an existing, as of the date of applica-  
12 tion for an allotment under this subsection,  
13 tax credit scholarship program shall use  
14 not less than 50 percent of the allotment  
15 to award subgrants to eligible scholarship-  
16 granting organizations in the State.

17 (ii) STATES WITHOUT TAX CREDIT  
18 SCHOLARSHIP PROGRAMS.—By not later  
19 than 60 days after receiving an allotment  
20 under paragraph (3)(A)(ii), a State with-  
21 out a tax credit scholarship program shall  
22 use not less than 50 percent of the allot-  
23 ment to award subgrants to eligible schol-  
24 arship-granting organizations in the State.

1 (C) USES OF FUNDS.—An eligible scholar-  
2 ship-granting organization that receives a  
3 subgrant under this paragraph—

4 (i) may reserve not more than 5 per-  
5 cent of the subgrant funds for public out-  
6 reach, student and family support activi-  
7 ties, and administrative expenses related to  
8 the subgrant; and

9 (ii) shall use not less than 95 percent  
10 of the subgrant funds to provide qualifying  
11 scholarships for qualified expenses only to  
12 individual elementary school and secondary  
13 school students who reside in the State in  
14 which the eligible scholarship-granting or-  
15 ganization is recognized.

16 (5) REALLOCATION.—A State shall return to  
17 the Secretary any amounts of the allotment received  
18 under this subsection that the State does not award  
19 as subgrants under paragraph (4) by March 30,  
20 2021, and the Secretary shall reallocate such funds  
21 to the remaining eligible States in accordance with  
22 paragraph (3)(A)(ii).

23 (6) RULES OF CONSTRUCTION.—The rules of  
24 construction under section 25E(d) of the Internal  
25 Revenue Code of 1986, as added by subsection (b),

1 shall apply to this subsection in the same manner as  
2 such rules apply to section 25E of such Code, as so  
3 added.

4 (b) TAX CREDITS FOR CONTRIBUTIONS TO ELIGIBLE  
5 SCHOLARSHIP-GRANTING ORGANIZATIONS.—

6 (1) CREDIT FOR INDIVIDUALS.—Subpart A of  
7 part IV of subchapter A of chapter 1 of the Internal  
8 Revenue Code of 1986 is amended by adding after  
9 section 25D the following new section:

10 **“SEC. 25E. CONTRIBUTIONS TO ELIGIBLE SCHOLARSHIP-**  
11 **GRANTING ORGANIZATIONS.**

12 “(a) ALLOWANCE OF CREDIT.—Subject to section  
13 3(c)(3) of the Coronavirus Emergency Education Grants  
14 Act, in the case of an individual, there shall be allowed  
15 as a credit against the tax imposed by this chapter for  
16 the taxable year an amount equal to the sum of any quali-  
17 fied contributions made by the taxpayer during the taxable  
18 year.

19 “(b) AMOUNT OF CREDIT.—The credit allowed under  
20 subsection (a) for any taxable year shall not exceed 10  
21 percent of the taxpayer’s adjusted gross income for the  
22 taxable year.

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

1           “(1) ELIGIBLE SCHOLARSHIP-GRANTING ORGA-  
2           NIZATION.—The term ‘eligible scholarship-granting  
3           organization’ means—

4                   “(A) an organization that—

5                           “(i) is described in section 501(c)(3)  
6                           and exempt from taxation under section  
7                           501(a),

8                           “(ii) provides qualifying scholarships  
9                           to individual elementary and secondary  
10                           students who—

11                                   “(I) reside in the State in which  
12                                   the eligible scholarship-granting orga-  
13                                   nization is recognized, or

14                                   “(II) in the case of the Bureau of  
15                                   Indian Education, are members of a  
16                                   federally recognized tribe,

17                           “(iii) a State identifies to the Sec-  
18                           retary as an eligible scholarship-granting  
19                           organization under section 3(c)(3)(E)(ii) of  
20                           the Coronavirus Emergency Education  
21                           Grants Act,

22                           “(iv) allocates at least 90 percent of  
23                           qualified contributions to qualifying schol-  
24                           arships on an annual basis, and

1 “(v) provides qualifying scholarships  
2 to—

3 “(I) more than 1 eligible student,

4 “(II) more than 1 eligible family,

5 and

6 “(III) different eligible students

7 attending more than 1 education pro-

8 vider, or

9 “(B) an organization that—

10 “(i) is described in section 501(c)(3)

11 and exempt from taxation under section

12 501(a), and

13 “(ii) pursuant to State law, was able,

14 as of January 1, 2021, to receive contribu-

15 tions that are eligible for a State tax credit

16 if such contributions are used by the orga-

17 nization to provide scholarships to indi-

18 vidual elementary and secondary students,

19 including scholarships for attending private

20 schools.

21 “(2) QUALIFIED CONTRIBUTION.—The term

22 ‘qualified contribution’ means a contribution of cash

23 to any eligible scholarship-granting organization.

1           “(3) QUALIFIED EXPENSE.—The term ‘quali-  
2           fied expense’ means any educational expense that  
3           is—

4                   “(A) for an individual student’s elementary  
5                   or secondary education, as recognized by the  
6                   State, or

7                   “(B) for the secondary education compo-  
8                   nent of an individual elementary or secondary  
9                   student’s career and technical education, as de-  
10                  fined by section 3(5) of the Carl D. Perkins Ca-  
11                  reer and Technical Education Act of 2006 (20  
12                  U.S.C. 2302(5)).

13           “(4) QUALIFYING SCHOLARSHIP.—The term  
14           ‘qualifying scholarship’ means a scholarship granted  
15           by an eligible scholarship-granting organization to  
16           an individual elementary or secondary student for a  
17           qualified expense.

18           “(5) STATE.—The term ‘State’ means each of  
19           the 50 States, the District of Columbia, the Com-  
20           monwealth of Puerto Rico, the outlying areas (as de-  
21           fined in section 1121(c) of the Elementary and Sec-  
22           ondary Education Act of 1965 (20 U.S.C. 6331(c)),  
23           and the Department of the Interior (acting through  
24           the Bureau of Indian Education)).

25           “(d) RULES OF CONSTRUCTION.—



1           “(1) IN GENERAL.—A qualifying scholarship  
2 awarded to a student from the proceeds of a quali-  
3 fied contribution under this section shall not be con-  
4 sidered assistance to the school or other educational  
5 provider that enrolls, or provides educational services  
6 to, the student or the student’s parents.

7           “(2) EXCLUSION FROM INCOME.—Gross income  
8 shall not include any amount received by an indi-  
9 vidual as a qualifying scholarship and such amount  
10 shall not be taken into account as income or re-  
11 sources for purposes of determining the eligibility of  
12 such individual or any other individual for benefits  
13 or assistance, or the amount or extent of such bene-  
14 fits or assistance, under any Federal program or  
15 under any State or local program financed in whole  
16 or in part with Federal funds.

17           “(3) PROHIBITION OF CONTROL OVER NON-  
18 PUBLIC EDUCATION PROVIDERS.—

19           “(A)(i) Nothing in this section shall be  
20 construed to permit, allow, encourage, or au-  
21 thorize any Federal control over any aspect of  
22 any private, religious, or home education pro-  
23 vider, whether or not a home education provider  
24 is treated as a private school or home school  
25 under State law.

1           “(ii) This section shall not be construed to  
2           exclude private, religious, or home education  
3           providers from participation in programs or  
4           services under this section.

5           “(B) Nothing in this section shall be con-  
6           strued to permit, allow, encourage, or authorize  
7           an entity submitting a list of eligible scholar-  
8           ship-granting organizations on behalf of a State  
9           pursuant to section 3(e)(3)(E) of the  
10          Coronavirus Emergency Education Grants Act  
11          to mandate, direct, or control any aspect of a  
12          private or home education provider, regardless  
13          of whether or not a home education provider is  
14          treated as a private school under State law.

15          “(C) No participating State or entity act-  
16          ing on behalf of a State pursuant to section  
17          3(e)(3)(E) of the Coronavirus Emergency Edu-  
18          cation Grants Act shall exclude, discriminate  
19          against, or otherwise disadvantage any edu-  
20          cation provider with respect to programs or  
21          services under this section based in whole or in  
22          part on the provider’s religious character or af-  
23          filiation, including religiously based or mission-  
24          based policies or practices.

1           “(4) PARENTAL RIGHTS TO USE SCHOLAR-  
2           SHIPS.—No participating State or entity acting on  
3           behalf of a State pursuant to section 3(c)(3)(E) of  
4           the Coronavirus Emergency Education Grants Act  
5           shall disfavor or discourage the use of qualifying  
6           scholarships for the purchase of elementary and sec-  
7           ondary education services, including those services  
8           provided by private or nonprofit entities, such as  
9           faith-based providers.

10           “(5) STATE AND LOCAL AUTHORITY.—Nothing  
11           in this section shall be construed to modify a State  
12           or local government’s authority and responsibility to  
13           fund education.

14           “(e) DENIAL OF DOUBLE BENEFIT.—The Secretary  
15           shall prescribe such regulations or other guidance to en-  
16           sure that the sum of the tax benefits provided by Federal,  
17           State, or local law for a qualified contribution receiving  
18           a Federal tax credit in any taxable year does not exceed  
19           the sum of the qualified contributions made by the tax-  
20           payer for the taxable year.

21           “(f) CARRYFORWARD OF CREDIT.—If a tax credit al-  
22           lowed under this section is not fully used within the appli-  
23           cable taxable year because of insufficient tax liability on  
24           the part of the taxpayer, the unused amount may be car-  
25           ried forward for a period not to exceed 5 years.

1       “(g) ELECTION.—This section shall apply to a tax-  
2 payer for a taxable year only if the taxpayer elects to have  
3 this section apply for such taxable year.

4       “(h) ALTERNATIVE MINIMUM TAX.—For purposes of  
5 calculating the alternative minimum tax under section 55,  
6 a taxpayer may use any credit received for a qualified con-  
7 tribution under this section.”.

8               (2) CLERICAL AMENDMENT.—The table of sec-  
9 tions for subpart A of part IV of subchapter A of  
10 chapter 1 of the Internal Revenue Code of 1986 is  
11 amended by inserting after the item relating to sec-  
12 tion 25D the following new item:

“Sec. 25E. Contributions to eligible scholarship-granting organizations.”.

13               (3) CREDIT FOR CORPORATIONS.—Subpart D  
14 of part IV of subchapter A of chapter 1 of the Inter-  
15 nal Revenue Code of 1986 is amended by adding at  
16 the end the following new section:

17 **“SEC. 45U. CONTRIBUTIONS TO ELIGIBLE SCHOLARSHIP-**  
18 **GRANTING ORGANIZATIONS.**

19       “(a) ALLOWANCE OF CREDIT.—Subject to section  
20 3(c)(3) of the Coronavirus Emergency Education Grants  
21 Act, for purposes of section 38, in the case of a domestic  
22 corporation, there shall be allowed as a credit against the  
23 tax imposed by this chapter for the taxable year an  
24 amount equal to the sum of any qualified contributions

1 (as defined in section 25E(c)(2)) made by such corpora-  
 2 tion taxpayer during the taxable year.

3 “(b) AMOUNT OF CREDIT.—The credit allowed under  
 4 subsection (a) for any taxable year shall not exceed 5 per-  
 5 cent of the taxable income (as defined in section  
 6 170(b)(2)(D)) of the domestic corporation for such taxable  
 7 year.

8 “(c) ADDITIONAL PROVISIONS.—For purposes of this  
 9 section, any qualified contributions made by a domestic  
 10 corporation shall be subject to the provisions of section  
 11 25E (including subsection (d) of such section), to the ex-  
 12 tent applicable.

13 “(d) ELECTION.—This section shall apply to a tax-  
 14 payer for a taxable year only if the taxpayer elects to have  
 15 this section apply for such taxable year.”.

16 (4) CREDIT PART OF GENERAL BUSINESS  
 17 CREDIT.—Section 38(b) is amended—

18 (A) by striking “plus” at the end of para-  
 19 graph (32);

20 (B) by striking the period at the end of  
 21 paragraph (33) and inserting “, plus”; and

22 (C) by adding at the end the following new  
 23 paragraph:

24 “(34) the credit for qualified contributions de-  
 25 termined under section 45U(a).”.

1           (5) CLERICAL AMENDMENT.—The table of sec-  
 2           tions for subpart D of part IV of subchapter A of  
 3           chapter 1 is amended by adding at the end the fol-  
 4           lowing new item:

“Sec. 45U. Contributions to eligible scholarship-granting organizations.”.

5           (6) EFFECTIVE DATE.—The amendments made  
 6           by this subsection shall apply to taxable years begin-  
 7           ning after December 31, 2020.

8           (c) EDUCATION FREEDOM SCHOLARSHIPS WEB POR-  
 9           TAL AND ADMINISTRATION.—

10           (1) IN GENERAL.—The Secretary of the Treas-  
 11           ury shall, in coordination with the Secretary of Edu-  
 12           cation, establish, host, and maintain a web portal  
 13           that—

14                   (A) lists all eligible scholarship-granting  
 15                   organizations;

16                   (B) enables a taxpayer to make a quali-  
 17                   fying contribution to 1 or more eligible scholar-  
 18                   ship-granting organizations and to immediately  
 19                   obtain both a pre-approval of a tax credit for  
 20                   that contribution and a receipt for tax filings;

21                   (C) provides information about the tax  
 22                   benefits under sections 25E and 45U of the In-  
 23                   ternal Revenue Code of 1986; and

24                   (D) enables a State to submit and update  
 25                   information about its programs and its eligible

1 scholarship-granting organizations for informa-  
2 tional purposes only, including information  
3 on—

4 (i) student eligibility;

5 (ii) allowable educational expenses;

6 (iii) the types of allowable education  
7 providers;

8 (iv) the percentage of funds an orga-  
9 nization may use for program administra-  
10 tion; and

11 (v) the percentage of total contribu-  
12 tions the organization awards in a calendar  
13 year.

14 (2) NONPORTAL CONTRIBUTIONS.—A taxpayer  
15 may opt to make a contribution directly to an eligi-  
16 ble scholarship-granting organization, instead of  
17 through the web portal described in paragraph (1),  
18 provided that the taxpayer, or the eligible scholar-  
19 ship-granting organization on behalf of the taxpayer,  
20 applies for, and receives, pre-approval for a tax cred-  
21 it from the Secretary of the Treasury in coordina-  
22 tion with the Secretary of Education.

23 (3) NATIONAL AND STATE LIMITATIONS ON  
24 CREDITS.—

1 (A) NATIONAL LIMITATION.—For each fis-  
2 cal year, the total amount of qualifying con-  
3 tributions for which a credit is allowed under  
4 sections 25E and 45U of the Internal Revenue  
5 Code of 1986 shall not exceed \$5,000,000,000.

6 (B) ALLOCATION OF LIMITATION.—

7 (i) INITIAL ALLOCATIONS.—For each  
8 calendar year, with respect to the limita-  
9 tion under subparagraph (A), the Sec-  
10 retary of the Treasury, in consultation  
11 with the Secretary of Education, shall—

12 (I) allocate to each State an  
13 amount equal to the sum of the quali-  
14 fying contributions made in the State  
15 in the previous year; and

16 (II) from any amounts remaining  
17 following allocations made under sub-  
18 clause (I), allocate to each partici-  
19 pating State an amount equal to the  
20 sum of—

21 (aa) an amount that bears  
22 the same relationship to 20 per-  
23 cent of such remaining amount  
24 as the number of individuals  
25 aged 5 through 17 in the State,



1 as determined by the Secretary of  
2 Education on the basis of the  
3 most recent satisfactory data,  
4 bears to the number of those in-  
5 dividuals in all such States, as so  
6 determined; and

7 (bb) an amount that bears  
8 the same relationship to 80 per-  
9 cent of such remaining amount  
10 as the number of individuals  
11 aged 5 through 17 from families  
12 with incomes below the poverty  
13 line in the State, as determined  
14 by the Secretary of Education, on  
15 the basis of the most recent sat-  
16 isfactory data, bears to the num-  
17 ber of those individuals in all  
18 such States, as so determined.

19 (ii) MINIMUM ALLOCATION.—Notwith-  
20 standing clause (i), no State receiving an  
21 allocation under this subsection may re-  
22 ceive less than one-half of 1 percent of the  
23 amount allocated for a fiscal year.

24 (iii) ALTERNATIVE ALLOCATION.—

1 (I) IN GENERAL.—Not later than  
2 the end of the fifth year of the pro-  
3 gram or 1 year after the end of the  
4 first fiscal year for which the total  
5 amount of credits claimed under sec-  
6 tion 25E and section 45U of the In-  
7 ternal Revenue Code of 1986 is  
8 \$2,500,000,000 or more, whichever  
9 comes first, the Secretary of the  
10 Treasury, in consultation with the  
11 Secretary of Education, shall, by reg-  
12 ulation, provide for an alternative al-  
13 location method that shall take effect  
14 beginning with the first fiscal year  
15 after such regulation takes effect.

16 (II) ALTERNATIVE ALLOCATION  
17 METHOD.—The alternative allocation  
18 method shall be expressed as a for-  
19 mula based on a combination of the  
20 following data for each State, as re-  
21 ported by the State to the Secretary  
22 of the Treasury:

23 (aa) The relative percentage  
24 of students in the State who re-  
25 ceive an elementary or secondary

1 scholarship through a State pro-  
2 gram that is financed through  
3 State tax-credited donations or  
4 appropriations and that permits  
5 the elementary or secondary  
6 scholarship to be used to attend  
7 a private school.

8 (bb) The total amount of all  
9 elementary and secondary schol-  
10 arships awarded through a State  
11 program that is financed through  
12 State tax-credited donations or  
13 appropriations compared to the  
14 total amount of current State  
15 and local expenditures for free  
16 public education in the State.

17 (III) ALLOCATION FORMULA.—

18 For any fiscal year to which subclause  
19 (I) applies, the Secretary of the  
20 Treasury, in consultation with the  
21 Secretary of Education, shall—

22 (aa) for each State, allocate  
23 an amount equal to the sum of  
24 the qualifying contributions made  
25 in the State in the previous year;

1 (bb) allocate  $\frac{2}{3}$  of the re-  
2 maining amount (after applica-  
3 tion of item (aa)) of the national  
4 limitation for that year using the  
5 alternative allocation method  
6 under subclause (II); and

7 (cc) allocate  $\frac{1}{3}$  of the re-  
8 maining amount (after applica-  
9 tion of item (aa) and (bb)) in ac-  
10 cordance with clause (i)(II).

11 (IV) INELIGIBILITY.—For any  
12 fiscal year to which subclause (I) ap-  
13 plies, a State that does not provide  
14 the Secretary of the Treasury with in-  
15 formation described in subclause (II)  
16 is not eligible to receive an allocation  
17 through the alternative allocation  
18 method under such subclause.

19 (C) ALLOWABLE PARTNERSHIPS.—A State  
20 may choose to administer the allocation it re-  
21 ceives under subparagraph (B) in partnership  
22 with 1 or more States, provided that the eligible  
23 scholarship-granting organizations in each part-  
24 ner State serve students who reside in all  
25 States in the partnership.

1 (D) TOTAL ALLOCATION.—A State’s allo-  
2 cation, for any fiscal year, is the sum of the  
3 amount determined for such State under  
4 clauses (i) and (ii) of subparagraph (B), except  
5 as provided in subparagraph (B)(iii).

6 (E) ALLOCATION AND ADJUSTMENTS.—

7 (i) INITIAL ALLOCATION TO  
8 STATES.—Not later than November 1 of  
9 the year preceding a year for which there  
10 is a national limitation on credits under  
11 subparagraph (A) (referred to in this sub-  
12 section as the “applicable year”), or as  
13 early as practicable with respect to the  
14 first year, the Secretary of the Treasury  
15 shall announce the State allocations under  
16 subparagraph (B) for the applicable year.

17 (ii) LIST OF ELIGIBLE SCHOLARSHIP-  
18 GRANTING ORGANIZATIONS.—

19 (I) IN GENERAL.—Not later than  
20 January 1 of each applicable year, or  
21 as early as practicable with respect to  
22 the first year, each State shall provide  
23 the Secretary of the Treasury a list of  
24 eligible scholarship-granting organiza-  
25 tions, including a certification that the

1                   entity submitting the list on behalf of  
2                   the State has the authority to perform  
3                   this function.

4                   (II) RULE OF CONSTRUCTION.—  
5                   Neither this subsection nor any other  
6                   Federal law shall be construed as lim-  
7                   iting the entities that may submit the  
8                   list on behalf of a State.

9                   (iii) REALLOCATION OF UNCLAIMED  
10                  CREDITS.—The Secretary of the Treasury  
11                  shall reallocate a State’s allocation to other  
12                  States, in accordance with subparagraph  
13                  (B), if the State—

14                   (I) chooses not to identify schol-  
15                   arship-granting organizations under  
16                   clause (ii) in any applicable year; or

17                   (II) does not have an existing eli-  
18                   gible scholarship-granting organiza-  
19                   tion.

20                  (iv) REALLOCATION.—On or after  
21                  April 1 of any applicable year, the Sec-  
22                  retary of the Treasury may reallocate, to 1  
23                  or more other States that have eligible  
24                  scholarship-granting organizations in the  
25                  States, without regard to subparagraph

1 (B), the allocation of a State for which the  
2 State's allocation has not been claimed.

3 (4) DEFINITIONS.—Any term used in this sub-  
4 section which is also used in section 25E of the In-  
5 ternal Revenue Code of 1986 shall have the same  
6 meaning as when used in such section.

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