AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

118TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPT. 118–707
Part 1

EDUCATIONAL CHOICE FOR CHILDREN ACT OF 2024

OCTOBER 4, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Missouri, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 9462]

The Committee on Ways and Means, to whom was referred the bill (H.R. 9462) 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, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

59–006

The amendment is as follows:
Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Educational Choice for Children Act of 2024".

SEC. 2. TAX CREDIT FOR CONTRIBUTIONS OF INDIVIDUALS TO SCHOLARSHIP GRANTING ORGANIZATIONS.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 25E the following new section:

"SEC. 25F. QUALIFIED ELEMENTARY AND SECONDARY EDUCATION SCHOLARSHIPS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the aggregate amount of qualified contributions made by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

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

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

"(B) $5,000.

"(2) ALLOCATION OF VOLUME CAP.—The credit allowed under subsection (a) to any taxpayer for any taxable year shall not exceed the amount of the volume cap allocated by the Secretary to such taxpayer under subsection (g) with respect to qualified contributions made by the taxpayer during the taxable year.

"(3) REDUCTION BASED ON STATE CREDIT.—The amount allowed as a credit under subsection (a) for a taxable year shall be reduced by the amount allowed as a credit on any State tax return of the taxpayer for qualified contributions made by the taxpayer during the taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE STUDENT.—The term 'eligible student' means an individual who—

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

"(B) is eligible to enroll in a public elementary or secondary school.

"(2) QUALIFIED CONTRIBUTION.—The term 'qualified contribution' means a charitable contribution (as defined by section 170(c)) to a scholarship granting organization in the form of cash or marketable securities.

"(3) QUALIFIED ELEMENTARY OR SECONDARY EDUCATION EXPENSE.—The term 'qualified elementary or secondary education expense' means the following expenses in connection with enrollment or attendance at, or for students enrolled at or attending, an elementary or secondary public, private, or religious school:

"(A) Tuition.

"(B) Curriculum and curricular materials.

"(C) Books or other instructional materials.

"(D) Online educational materials.

"(E) Tuition for tutoring or educational classes outside of the home, including at a tutoring facility, but only if the tutor or instructor is not related to the student and—

"(i) is licensed as a teacher in any State,

"(ii) has taught at an eligible educational institution, or

"(iii) is a subject matter expert in the relevant subject.

"(F) Fees for a nationally standardized norm-referenced achievement test, an advanced placement examination, or any examinations related to college or university admission.

"(G) Fees for dual enrollment in an institution of higher education.

"(H) Educational therapies for students with disabilities provided by a licensed or accredited practitioner or provider, including occupational, behavioral, physical, and speech-language therapies.

Such term shall include expenses for the purposes described in subparagraphs (A) through (H) in connection with a homeschool (whether treated as a homeschool or a private school for purposes of applicable State law).

"(4) SCHOLARSHIP GRANTING ORGANIZATION.—The term 'scholarship granting organization' means any organization—

"(A) which—

"(i) is described in section 501(c)(3) and exempt from tax under section 501(a), and

"(ii) is not a private foundation,

"(B) substantially all of the activities of which are providing scholarships for qualified elementary or secondary education expenses of eligible students,

"(C) which prevents the co-mingling of qualified contributions with other amounts by maintaining one or more separate accounts exclusively for qualified contributions, and

"(D) which either—

"(i) meets the requirements of subsection (d), or

"(ii) pursuant to State law, was able (as of the date of the enactment of this section) to receive contributions that are eligible for a State tax credit if such contributions are used by the organization to provide scholarships to individual elementary and secondary students, including scholarships for attending private schools.

"(d) REQUIREMENTS FOR SCHOLARSHIP GRANTING ORGANIZATIONS.—

"(1) IN GENERAL.—An organization meets the requirements of this subsection if—

"(A) such organization provides scholarships to 2 or more students, provided that not all such students attend the same school,

"(B) such organization does not provide scholarships for any expenses other than qualified elementary or secondary education expenses,

"(C) such organization provides a scholarship to eligible students with a priority for—

"(i) students awarded a scholarship the previous school year, and

"(ii) after application of clause (i), any such students who have a sibling who was awarded a scholarship from such organization,

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

"(E) such organization takes appropriate steps to verify the annual household income and family size of eligible students to whom it awards scholarships, and limits them to a member of a household for which the income does not exceed the amount established under subsection (c)(1)(A),

"(F) such organization—

"(i) obtains from an independent certified public accountant annual financial and compliance audits, and

"(ii) certifies to the Secretary (at such time, and in such form and manner, as the Secretary may prescribe) that the audit described in clause (i) has been completed, and

"(G) no officer or board member of such organization has been convicted of a felony.

"(2) INCOME VERIFICATION.—For purposes of paragraph (1)(E), review of all of the following (as applicable) shall be treated as satisfying the requirement to take appropriate steps to verify annual household income:

"(A) Federal and State income tax returns or tax return transcripts with applicable schedules for the taxable year prior to application.

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

"(C) Notarized income verification letter from employers.

"(D) Unemployment or workers compensation statements.

"(E) Budget letters regarding public assistance payments and Supplemental Nutrition Assistance Program (SNAP) payments including a list of household members.

"(3) INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.—For purposes of paragraph (1)(F), the term 'independent certified public accountant' means, with re-

spect to an organization, a certified public accountant who is not a person described in section 465(b)(3)(A) with respect to such organization or any employee of such organization.

"(4) PROHIBITION ON SELF-DEALING.—

"(A) IN GENERAL.—A scholarship granting organization may not award a scholarship to any disqualified person.

"(B) DISQUALIFIED PERSON.—For purposes of this paragraph, a disqualified person shall be determined pursuant to rules similar to the rules of section 4946.

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

"(f) CARRYFORWARD OF UNUSED CREDIT.—

"(1) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section, section 23, and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

"(2) LIMITATION.—No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.

"(g) VOLUME CAP.—

"(1) IN GENERAL.—The volume cap applicable under this section shall be $5,000,000,000 for each of calendar years 2025 through 2028, and zero for calendar years thereafter. Such amount shall be allocated by the Secretary as provided in paragraph (2) to taxpayers with respect to qualified contributions made by such taxpayers, except that 10 percent of such amount shall be divided evenly among the States, and shall be available with respect to individuals residing in such States.

"(2) FIRST-COME, FIRST-SERVE.—For purposes of applying the volume cap under this section, such volume cap for any calendar year shall be allocated by the Secretary on a first-come, first-serve basis, as determined based on the time (during such calendar year) at which the taxpayer made the qualified contribution with respect to which the allocation is made. The Secretary shall not make any allocation of volume cap for any calendar year after December 31 of such calendar year.

"(3) REAL-TIME INFORMATION.—For purposes of this section, the Secretary shall develop a system to track the amount of qualified contributions made during the calendar year for which a credit may be claimed under this section, with such information to be updated in real time.

"(4) ANNUAL INCREASES.—

"(A) IN GENERAL.—In the case of the calendar year after a high use calendar year, the dollar amount otherwise in effect under subsection (a) for such calendar year shall be equal to 105 percent of the dollar amount in effect for such high use calendar year.

"(B) HIGH USE CALENDAR YEAR.—For purposes of this subsection, the term 'high use calendar year' means any calendar year for which 90 percent or more of the volume cap in effect for such calendar year under subsection (a) is allocated to taxpayers.

"(C) PREVENTION OF DECREASES IN ANNUAL VOLUME CAP.—The volume cap in effect under subsection (a) for any calendar year shall not be less than the volume cap in effect under such subsection for the preceding calendar year.

"(D) PUBLICATION OF ANNUAL VOLUME CAP.—The Secretary shall make publicly available the dollar amount of the volume cap in effect under subsection (a) for each calendar year.

"(5) STATES.—For purposes of this subsection, the term 'State' includes the District of Columbia.".

(2) CONFORMING AMENDMENTS.—

(A) Section 25(e)(1)(C) of such Code is amended by striking "and 25D" and inserting "25D, and 25F".

(B) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25E the following new item:

"Sec. 25F. Qualified elementary and secondary education scholarships.".

(b) FAILURE OF SCHOLARSHIP GRANTING ORGANIZATIONS TO MAKE DISTRIBUTIONS.—

(1) IN GENERAL.—Chapter 42 of such Code is amended by adding at the end the following new subchapter:

"Subchapter I—Scholarship Granting Organizations

"Sec. 4969. Failure to distribute receipts.

"SEC. 4969. FAILURE TO DISTRIBUTE RECEIPTS.

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

"(b) REQUIREMENT.—The requirement described in this subsection is that the amount of receipts of the scholarship granting organization for the taxable year which are distributed before the distribution deadline with respect to such receipts shall not be less than the required distribution amount with respect to such taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REQUIRED DISTRIBUTION AMOUNT.—

"(A) IN GENERAL.—The required distribution amount with respect to a taxable year is the amount equal to 100 percent of the total receipts of the scholarship granting organization for such taxable year—

"(i) reduced by the sum of such receipts that are retained for reasonable administrative expenses for the taxable year or are carried to the succeeding taxable year under subparagraph (C), and

"(ii) increased by the amount of the carryover under subparagraph (C) from the preceding taxable year.

"(B) SAFE HARBOR FOR REASONABLE ADMINISTRATIVE EXPENSES.—For purposes of subparagraph (A)(i), if the percentage of total receipts of a scholarship granting organization for a taxable year which are used for administrative purposes is equal to or less than 10 percent, such expenses shall be deemed to be reasonable for purposes of such subparagraph.

"(C) CARRYOVER.—With respect to the amount of the total receipts of a scholarship granting organization with respect to any taxable year, an amount not greater than 15 percent of such amount may, at the election of such organization, be carried to the succeeding taxable year.

"(2) DISTRIBUTIONS.—The term 'distribution' includes amounts which are formally committed but not distributed. A formal commitment described in the preceding sentence may include contributions set aside for eligible students for more than one year.

"(3) DISTRIBUTION DEADLINE.—The distribution deadline with respect to receipts for a taxable year is the first day of the third taxable year following the taxable year in which such receipts are received by the scholarship granting organization.".

(2) CLERICAL AMENDMENT.—The table of subchapters for chapter 42 of such Code is amended by adding at the end the following new item:

"SUBCHAPTER I. SCHOLARSHIP GRANTING ORGANIZATIONS".

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

SEC. 3. EXEMPTION FROM GROSS INCOME FOR SCHOLARSHIPS FOR QUALIFIED ELEMENTARY OR SECONDARY EDUCATION EXPENSES OF ELIGIBLE STUDENTS.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting before section 140 the following new section:

"SEC. 139J. SCHOLARSHIPS FOR QUALIFIED ELEMENTARY OR SECONDARY EDUCATION EXPENSES OF ELIGIBLE STUDENTS.

"(a) IN GENERAL.—In the case of an individual, gross income shall not include any amounts provided to any dependent of such individual pursuant to a scholarship for qualified elementary or secondary education expenses of an eligible student which is provided by a scholarship granting organization.

"(b) DEFINITIONS.—In this section, the terms 'qualified elementary or secondary education expense', 'eligible student', and 'scholarship granting organization' have the same meaning given such terms under section 25F(c).".

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

"Sec. 139J. Scholarships for qualified elementary or secondary education expenses of eligible students.".

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

SEC. 4. ORGANIZATIONAL AND PARENTAL AUTONOMY.

(a) PROHIBITION OF CONTROL OVER SCHOLARSHIP ORGANIZATIONS.—

(1) IN GENERAL.—

(A) TREATMENT.—A scholarship granting organization shall not, by virtue of participation under any provision of this Act or any amendment made by this Act, be regarded as acting on behalf of any governmental entity.

(B) NO GOVERNMENTAL CONTROL.—Nothing in this Act, or any amendment made by this Act, shall be construed to permit, allow, encourage, or authorize any Federal, State, or local government entity, or officer or employee thereof, to mandate, direct, or control any aspect of any scholarship granting organization.

(C) MAXIMUM FREEDOM.—To the extent permissible by law, this Act, and any amendment made by this Act, shall be construed to allow scholarship granting organizations maximum freedom to provide for the needs of the participants without governmental control.

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

(A) NO GOVERNMENTAL CONTROL.—Nothing in this Act, or any amendment made by this Act, shall be construed to permit, allow, encourage, or authorize any Federal, State, or local government entity, or officer or employee thereof, to mandate, direct, or control any aspect of any private or religious elementary or secondary education institution.

(B) NO EXCLUSION OF PRIVATE OR RELIGIOUS SCHOOLS.—No Federal, State, or local government entity, or officer or employee thereof, shall impose or permit the imposition of any conditions or requirements that would exclude or operate to exclude educational expenses at private or religious elementary and secondary education institutions from being considered qualified elementary or secondary education expenses.

(C) NO EXCLUSION OF QUALIFIED EXPENSES DUE TO INSTITUTION'S RELIGIOUS CHARACTER OR AFFILIATION.—No Federal, State, or local government entity, or officer or employee thereof, shall exclude, discriminate against, or otherwise disadvantage any elementary or secondary education institution with respect to qualified elementary or secondary education expenses at that institution based in whole or in part on the institution's religious character or affiliation, including religiously based or mission-based policies or practices.

(3) PARENTAL RIGHTS TO USE SCHOLARSHIPS.—No Federal, State, or local government entity, or officer or employee thereof, shall disfavor or discourage the use of scholarships granted by participating scholarship granting organizations for qualified elementary or secondary education expenses at private or nonprofit elementary and secondary education institutions, including faith-based schools.

(4) PARENTAL RIGHT TO INTERVENE.—In any action filed in any State or Federal court which challenges the constitutionality (under the constitution of such State or the Constitution of the United States) of any provision of this Act (or any amendment made by this Act), any parent of an eligible student who has received a scholarship from a scholarship granting organization shall have the right to intervene in support of the constitutionality of such provision or amendment. To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any such action may require interveners taking similar positions to file joint papers or to be represented by a single attorney at oral argument, provided that the court does not require such interveners to join any brief filed on behalf of any State which is a defendant in such action.

(b) DEFINITIONS.—For purposes of this section, the terms "eligible student", "scholarship granting organization", and "qualified elementary or secondary education expense" shall have the same meanings given such terms under section 25F(c) of the Internal Revenue Code of 1986 (as added by section 2(a) of this Act).

I. SUMMARY AND BACKGROUND

A. Purpose and Summary

The bill, H.R. 9462, the "Educational Choice for Children Act of 2024," as ordered reported by the Committee on Ways and Means on September 11, 2024, adds to present law a nonrefundable income tax credit that is equal to the aggregate amount of qualified contributions made by the taxpayer during the taxable year for donations or charitable contributions made to scholarship granting organizations under the Internal Revenue Code ("Code") section 25. Section 2 of the bill adds two new sections to the Code, Section 25F, *Qualified Elementary and Secondary Education Scholarships*, and Section 4969, *Failure to Distribute Receipts*. This section further defines the criteria for eligible qualified scholarships as well as eligible scholarship granting organizations. Section 3 of the bill adds a new section to the Code, Section 139J, *Scholarships for Qualified Elementary or Secondary Education Expenses of Eligible Students*, to exempt gross income for scholarships for qualified elementary or secondary education expenses of eligible students. Section 4 of the bill provides that a scholarship granting organization shall not act on behalf of any governmental entity and protects parental rights to use scholarships.

B. Background and Need for Legislation

Qualified Elementary and Secondary Education Scholarships are valuable tools for millions of American families and students to help parents and students have access to the right school that best meets a student's needs. The Committee believes the use of elementary and secondary education scholarships should be expanded to help ease the educational cost burden for parents and expand educational opportunities for students. Today, 23 states have implemented K–12 scholarship fund programs to help meet the needs of individual students. To date, such programs have awarded over $1.8 billion, with the average scholarship totaling $4,000 per student targeted toward low-income and minority students. As of Committee passage, 365,000 students nationwide have benefitted from state-level programs like the proposal under the *Educational Choice for Children Act of 2024*.

However, because of the education divide at the state level, many states have not adopted school choice programs that promote educational freedom for students and parent choice for families. H.R. 9462 addresses this by offering an incentive for individual taxpayers to receive a tax credit for donations or charitable contributions to scholarship granting organizations, which are tax-exempt organizations that provide scholarships to elementary and secondary school students. This bill provides education tax incentives to expand educational freedom and parent choice to families unable to afford alternative schooling options. Specifically, H.R. 9462 offers parents and students with the resources to receive the education that is best for them by providing an incentive for individual taxpayers to invest in scholarships.

C. Legislative History

Background

H.R. 9462 was introduced on September 6, 2024, and was referred to the Committee on Ways and Means.

Committee Hearings

On October 25, 2023, the Committee held a hearing on, "Educational Freedom and Opportunity for American Families, Students and Workers."

Committee Action

The Committee on Ways and Means marked up H.R. 9462, the "Educational Choice for Children Act of 2024," on September 11, 2024, and ordered the bill, as amended, favorably reported (with a quorum being present).

D. Designated Hearing

Pursuant to clause 3(c)(6) of rule XIII, the following hearings were used to develop and consider H.R. 9462:

On October 25, 2023, the Committee held a hearing on, "Educational Freedom and Opportunity for American Families, Students and Workers."

II. EXPLANATION OF THE BILL

A. Tax Credit for Contributions of Individuals to Scholarship Granting Organizations; Exemption From Gross Income for Scholarships for Qualified Elementary or Secondary Education Expenses of Eligible Students; Organizational and Parental Autonomy (Secs. 2, 3, and 4 of the Bill and New Sections 25F, 139J, and 4969 of the Code)

PRESENT LAW

Charitable contribution deduction

In computing taxable income, an individual taxpayer who itemizes deductions or a corporate taxpayer generally is allowed to deduct the amount of cash and the fair market value of property contributed to an organization described in section 501(c)(3) or to a Federal, State, or local governmental entity, including to most educational organizations.[1]

The amount of the deduction allowable for a taxable year with respect to a charitable contribution of property may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer.[2] For individual taxpayers, the income-based limitation on the charitable contribution deduction is higher for gifts made to public charities than for gifts made to private foundations. Contributions of cash to a public charity generally are deductible

[1] Within certain limitations, donors also are entitled to deduct such contributions for estate and gift tax purposes. See secs. 2055 and 2522.

[2] Sec. 170(b) and (e).

up to 60 percent [3] of the donor's adjusted gross income ("AGI") [4] (30 percent for capital gain property, and 50 percent for non-capital gain property other than cash), whereas contributions to most private foundations generally are deductible up to 30 percent of the donor's AGI (20 percent for capital gain property).[5] For corporate taxpayers, the deductible amount of charitable contributions generally is limited to 10 percent of taxable income.[6] For all taxpayers, gifts of capital gain property to a public charity generally are deductible at the property's fair market value,[7] whereas gifts of capital gain property (other than publicly traded stock) to most private foundations are deductible at the taxpayer's basis (cost) in the property.[8]

Qualified scholarships and qualified tuition reduction

Present law provides an exclusion from gross income for income tax purposes and from wages for employment tax purposes for amounts received as a qualified scholarship by an individual who is a candidate for a degree at an educational organization described in section 170(b)(1)(A)(ii) (a "qualifying educational organization").[9] In general, a qualified scholarship is any amount received by such an individual as a scholarship or fellowship grant if the amount is used for qualified tuition and related expenses. Qualified tuition and related expenses include tuition and fees required for enrollment or attendance, or for fees, books, supplies, and equipment required for courses of instruction, at the qualifying educational organization. This definition does not include regular living expenses, such as room and board. A qualifying educational organization is an educational organization that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. These institutions include K–12 schools.

Present law also provides an exclusion from gross income for income tax purposes and from wages for employment tax purposes for qualified tuition reductions for certain education (below the graduate level) that is provided to employees (and their spouses and dependents) of qualifying educational organizations.[10] The education must be provided at the employing organization or another qualifying educational organization. This exclusion does not apply to any amount received by a student that represents payment for teaching, research, or other services by the student required as a condition for receiving the tuition reduction.

---

[3] For contributions made in taxable years beginning after December 31, 2025, the 60-percent limit is reduced to 50 percent. Sec. 170(b)(1)(G)(i).

[4] The charitable percentage limits are applied to the donor's "contribution base," which is the donor's AGI computed without regard to any net operating loss carryback to the taxable year under section 172. Sec. 170(b)(1)(H).

[5] Sec. 170(b)(1).

[6] Sec. 170(b)(2).

[7] Sec. 170(e)(1). However, contributions of tangible personal property not for an exempt purpose of the donee organization are deductible at the taxpayer's basis in the property. Sec. 170(e)(1)(B)(i). A special rule determines the aggregate deduction for contributions of certain intellectual property. Sec. 170(e)(1)(B)(iii) and 170(m).

[8] Sec. 170(e)(1)(B)(ii) and 170(e)(5).

[9] Secs. 117(a) and 3121(a)(20).

[10] Secs. 117(d) and 3121(a)(20).

Gift tax exclusion for educational expenses

Under present law, gift tax is imposed on transfers of property by gift, subject to several exceptions. One exception is the gift tax annual exclusion of section 2503(b). Under this exclusion, a donor can transfer up to $18,000 of property to each of an unlimited number of donees without incurring gift tax on such transfers.[11]

In addition to the gift tax annual exclusion, the Code provides that certain tuition payments are not considered transfers of property by gift for gift tax purposes.[12] This exclusion covers amounts paid on behalf of an individual as tuition to a qualifying educational organization. An unlimited exclusion applies only to direct transfers to the educational institution, not to reimbursements to donees for amounts paid by them for otherwise qualifying services, or to trusts to provide for the education of designated beneficiaries.[13] Further, an unlimited exclusion is not permitted for books, supplies, dormitory fees, board, or other similar expenses that do not constitute direct tuition costs.[14] This exclusion applies without regard to the relationship of the donor and donee.

REASONS FOR CHANGE

The Committee believes that the COVID–19 pandemic caused significant harm to student learning and educational achievement. The Committee further believes that educational choice is critical so that parents may choose the schools that will provide their children with the best opportunities for success. Therefore, the Committee provides a new credit for contributions to scholarship granting organizations, which it believes will promote greater educational freedom and opportunities for qualified elementary and secondary students.

EXPLANATION OF PROVISION

Tax credit for contributions of individuals to scholarship granting organizations

Individual income tax credit

The provision creates a nonrefundable income tax credit that is equal to the aggregate amount of qualified contributions made by the taxpayer during the taxable year. The credit allowed to a taxpayer for a taxable year may not exceed the greater of 10 percent of the taxpayer's aggregate gross income or $5,000. An individual is allowed the credit only to the extent that the Secretary of the Treasury (the "Secretary"), subject to an aggregate volume cap that is described below, allocates the credit to the individual.

For purposes of the credit, a "qualified contribution" is a charitable contribution (within the meaning of section 170(c)) to a scholarship granting organization in the form of cash or marketable securities. The amount allowed as a credit to a taxpayer for a taxable year is reduced by the amount allowed as a credit on any State tax return of the taxpayer for qualified contributions made by the tax-

[11] The Code provides an amount of $10,000 for the maximum gift tax annual exclusion, adjusted in $1,000 increments for inflation occurring after 1997. The inflation-adjusted amount for 2024 is $18,000.

[12] Sec. 2503(e).

[13] Treas. Reg. sec. 25.2503–6(c), ex. 2.

[14] Treas. Reg. sec. 25.2503–6(b)(2).

payer during the taxable year. The provision provides that any qualified contribution for which a credit is allowed is not taken into account as a charitable contribution for purposes of section 170.

A "scholarship granting organization" is any organization (a) that is described in section 501(c)(3), is exempt from tax under section 501(a), and is not a private foundation; (b) substantially all of the activities of which are providing scholarships for qualified elementary or secondary education expenses of eligible students; (c) that prevents the co-mingling of qualified contributions with other amounts by maintaining one or more separate accounts exclusively for qualified contributions; and (d) that either meets the requirements to be a scholarship granting organization (discussed below) or was eligible on the date of enactment to receive contributions for which the donor is entitled to a State tax credit if the contributions are used by the organization to provide scholarships. An "eligible student" is an individual who is a member of a household with annual income of no greater than 300 percent of the area median gross income (within the meaning of that term in section 42) and is eligible to enroll in a public elementary or secondary school.

An organization meets the requirements of a scholarship granting organization (referred to above) only if (a) the organization provides scholarships to two or more students at two or more schools, (b) the organization does not provide scholarships for expenses other than qualified elementary or secondary education expenses, (c) the organization provides scholarships to eligible students with a priority for students awarded a scholarship the previous year and their siblings, (d) the organization does not earmark or set aside contributions for scholarships for any particular student, (e) the organization takes appropriate steps to verify the income and family size of eligible students to whom it awards scholarships, and limits scholarships to individuals in households with annual household income that meets the limits set forth in the definition of an eligible student (the "income verification requirement"), (f) the organization obtains from an independent certified public accountant [15] annual financial and compliance audits and certifies to the Secretary that the audit has been completed, and (g) no officer or board member of the organization has been convicted of a felony.

The term "qualified elementary or secondary education expense" means the following expenses in connection with enrollment or attendance at, or for students enrolled at or attending, an elementary or secondary public, private, or religious school: tuition; curriculum and curricular materials; books or other instructional materials; online educational materials; tuition for certain tutoring or educational classes outside of the home; [16] fees for a nationally standardized norm-referenced achievement test, an Advanced Placement examination, or any examinations related to college or university admission; fees for dual enrollment in an institution of higher education; and educational therapies for students with disabilities provided by a licensed or accredited practitioner or provider. Such ex-

[15] For purposes of this requirement, the term "independent certified public accountant" means a certified public accountant who is not a person described in section 465(b)(3)(A) (*i.e.*, having an interest, or being a related person to a person having an interest) with respect to such organization or any employee of such organization.

[16] Such tuition is a qualified expense only if the tutor or instructor is not related to the student and is licensed as a teacher in any State, has taught at an eligible educational institution, or is a subject matter expert in the relevant subject.

penses include expenses in connection with a homeschool (whether treated as a homeschool or a private school for purposes of applicable State law).

A scholarship granting organization can satisfy the income verification requirement, discussed above, by reviewing all of the following documents (as applicable): (1) Federal and State income tax returns or tax return transcripts with applicable schedules for the taxable year prior to application, (2) income reporting statements for tax purposes or wage and income transcripts from the Internal Revenue Service, (3) notarized income verification letter from employers, (4) unemployment or workers compensation statements, and (5) budget letters regarding public assistance payments and Supplemental Nutrition Assistance Program ("SNAP") payments including a list of household members.

The credit is a nonrefundable personal tax credit taken against income tax liability. The credit is allowable against both the regular tax and the alternative minimum tax under section 26(a). If the credit allowable for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of nonrefundable personal tax credits (other than the individual credit under the provision and the credits allowable under section 23 and section 25D), the excess is carried to the succeeding taxable year and added to the credit allowable for such taxable year. However, no credit may be carried forward to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For this purpose, credits are treated as used on a first-in, first-out basis.

The provision provides rules against self-dealing, such that a scholarship granting organization may not award a scholarship to a disqualified person. For this purpose, a disqualified person is determined pursuant to rules similar to rules in section 4946, and includes, for example, substantial contributors, founders, and family members of substantial contributors and founders.

Failure of scholarship granting organizations to make distributions

If the Secretary determines that a scholarship granting organization has not satisfied one or more of the distributional requirements, described below, any contribution made to the organization during the first taxable year beginning after the date of the determination is not treated as a qualified contribution for purposes of the tax credit for individuals created under the provision.

Under the provision, the amount of receipts of the scholarship granting organization for the taxable year which are distributed before the distribution deadline with respect to such receipts must be at least equal to the required distribution amount for the taxable year. The "required distribution amount" with respect to a taxable year is equal to 100 percent of the total receipts of the scholarship granting organization for the taxable year, (a) reduced by the sum of the receipts that are retained for reasonable administrative expenses for the taxable year or are carried to the succeeding taxable year, and (b) increased by the amount of carryover from the preceding taxable year. Administrative expenses of a scholarship granting organization are deemed to be reasonable if the expenses do not exceed 10 percent of the organization's total receipts for the

taxable year. At the election of the scholarship granting organization, an amount of up to 15 percent of the total receipts of the organization may be carried to the succeeding taxable year.

Under the provision, a "distribution" includes amounts which are formally committed but not distributed. A formal commitment may include contributions set aside for eligible students for more than one year. The distribution deadline with respect to receipts for a taxable year is the first day of the third taxable year following the taxable year in which the scholarship granting organization receives the receipts.

Volume cap

The provision sets an aggregate volume cap on the total amount of credits at $5 billion for each of calendar years 2025 through 2028, and zero for any calendar years after 2028. In the case of a calendar year for which the volume cap is in effect and which follows a high use calendar year, the volume cap is increased to 105 percent of the dollar amount in effect for the high use calendar year. The term "high use calendar year" means any calendar year for which 90 percent or more of the volume cap in effect for such calendar year is allocated to taxpayers. The provision provides that the volume cap in effect for a calendar year must at least equal the volume cap in effect for the preceding calendar year. Thus, if the volume cap is increased in a year following a high-use calendar year, it is not subsequently reduced.

Generally, for purposes of allocating volume cap for a calendar year, the Secretary is directed to allocate the credit on a first-come, first-served basis, based on the time (during that calendar year) at which the taxpayer made the qualified contribution with respect to which the allocation is made. The Secretary may not allocate volume cap for a calendar year after December 31 of that calendar year. However, 10 percent of the annual volume cap is evenly divided among the States,[17] with such amounts being available to individuals residing in such States. The Secretary is directed to develop a system to track the amount of qualified distributions made during the calendar year for which a credit may be claimed, with such information updated in real time.

Exemption from gross income for scholarships for qualified elementary or secondary education expenses

The provision provides an exclusion from an individual's gross income for any amounts provided by a scholarship granting organization to the individual's dependent pursuant to a scholarship for qualified elementary or secondary education expenses of an eligible student.

The terms "qualified elementary or secondary education expense," "eligible student," and "scholarship granting organization" have the same meaning given such terms for purposes of the individual credit.

---

[17] For purposes of the volume cap, the term "State" includes the District of Columbia. Therefore, for calendar year 2025, a total of $500 million (10 percent of $5 billion) is divided equally among the 50 States and the District of Columbia, with each State receiving approximately $9.8 million in allocations.

Organizational and parental autonomy

Generally, the provision provides that (1) a scholarship granting organization is not by virtue of participating under the provision treated as acting on behalf of a government entity; (2) Federal, State, and local government entities (or officers and employees of such entities) are prohibited from mandating or controlling any aspect of a scholarship granting organization; (3) Federal, State, and local government entities (or officers and employees of such entities) are prohibited from mandating or controlling any aspect of a private or religious elementary or secondary education institution; (4) Federal, State, and local government entities (or officers and employees of such entities) are prohibited from imposing conditions or requirements that would exclude or operate to exclude educational expenses at private or religious elementary and secondary educational institutions from being considered qualified elementary or secondary education expenses, or otherwise disadvantage such institution based on its religious character or affiliation; (5) Federal, State, and local government entities (or officers and employees of such entities) are prohibited from disfavoring or discouraging parents from using scholarships granted by a scholarship granting organization at a private institution, including a faith-based school; and (6) a parent of an eligible student who has received a scholarship from a scholarship granting organization has a right to intervene in any court action in which the constitutionality of the provision has been challenged.

EFFECTIVE DATE

Generally, the provision is effective on date of enactment. The part of the provision relating to the tax credit is effective for taxable years ending after December 31, 2024. The part of the provision relating to the income exclusion for scholarships is effective for amounts received after December 31, 2024, in taxable years ending after December 31, 2024.

III. VOTES OF THE COMMITTEE

Pursuant to clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 9462, the "Educational Choice for Children Act of 2024," on September 11, 2024.

The vote on the amendment offered by Mr. Thompson to the amendment in the nature of a substitute to H.R. 9462, which would reduce the value of the credit under section 25F by any deduction, property tax rebate, or any other state-provided monetary benefit received by such taxpayer as a direct result of such contribution. Additionally, the amendment would provide that in the case of the contribution of securities, the credit provided by section 25F is considered money received upon the distribution of such securities, requiring taxpayers to recognize gain or loss for such contributions was not agreed to by a roll call vote of 16 yeas to 23 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett	X		
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly		X		Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer			
Mr. LaHood		X		Mr. Davis	X		
Dr. Wenstrup		X		Ms. Sánchez	X		
Mr. Arrington				Ms. Sewell	X		
Dr. Ferguson		X		Ms. DelBene	X		
Mr. Estes		X		Ms. Chu	X		
Mr. Smucker		X		Ms. Moore	X		
Mr. Hern		X		Mr. Kildee	X		
Ms. Miller		X		Mr. Beyer	X		
Dr. Murphy		X		Mr. Evans			
Mr. Kustoff		X		Mr. Schneider	X		
Mr. Fitzpatrick				Mr. Panetta	X		
Mr. Steube		X		Mr. Gomez	X		
Ms. Tenney		X		Mr. Horsford	X		
Mrs. Fischbach		X					
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Duyne		X					
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 9462, the "Educational Choice for Children Act of 2024," on September 11, 2024.

The vote on the amendment offered by Ms. Chu to the amendment in the nature of a substitute to H.R. 9462, which would provide that no amount paid to an elementary or secondary school shall be considered a qualified expense for purposes of this credit unless such school demonstrates that it maintains a health coverage plan for its employees that provides full cover for in vitro fertilization services was not agreed to by a roll call vote of 16 yeas to 23 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett	X		
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly		X		Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer			
Mr. LaHood		X		Mr. Davis	X		
Dr. Wenstrup		X		Ms. Sánchez	X		
Mr. Arrington				Ms. Sewell	X		
Dr. Ferguson		X		Ms. DelBene	X		
Mr. Estes		X		Ms. Chu	X		
Mr. Smucker		X		Ms. Moore	X		
Mr. Hern		X		Mr. Kildee	X		
Ms. Miller		X		Mr. Beyer	X		
Dr. Murphy		X		Mr. Evans			
Mr. Kustoff		X		Mr. Schneider	X		
Mr. Fitzpatrick				Mr. Panetta	X		
Mr. Steube		X		Mr. Gomez	X		
Ms. Tenney		X		Mr. Horsford	X		
Mrs. Fischbach		X					
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Duyne		X					

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 9462, the "Educational Choice for Children Act of 2024," on September 11, 2024.

The vote on the amendment offered by Ms. Sánchez to the amendment in the nature of a substitute to H.R. 9462, which would provide that no amount paid to an elementary or secondary school shall be considered a qualified expense for purposes of this credit unless such school demonstrates that it maintains a policy whereby it does not discriminate in its admissions on the basis of race, religion, sex, or sexual orientation was not agreed to by a roll call vote of 16 yeas to 23 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett	X		
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly		X		Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer			
Mr. LaHood		X		Mr. Davis	X		
Dr. Wenstrup		X		Ms. Sánchez	X		
Mr. Arrington				Ms. Sewell	X		
Dr. Ferguson		X		Ms. DelBene	X		
Mr. Estes		X		Ms. Chu	X		
Mr. Smucker		X		Ms. Moore	X		
Mr. Hern		X		Mr. Kildee	X		
Ms. Miller		X		Mr. Beyer	X		
Dr. Murphy		X		Mr. Evans			
Mr. Kustoff		X		Mr. Schneider	X		
Mr. Fitzpatrick				Mr. Panetta	X		
Mr. Steube		X		Mr. Gomez	X		
Ms. Tenney		X		Mr. Horsford	X		
Mrs. Fischbach		X					
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Duyne		X					
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 9462, the "Educational Choice for Children Act of 2024," on September 11, 2024.

The vote on the amendment offered by Ms. Moore (WI) to the amendment in the nature of a substitute to H.R. 9462, which would provide that no amount paid to an elementary or secondary school shall be considered a qualified expense for purposes of this credit unless such school demonstrates that its students are required to take state assessments and the school makes the results available to the students' parents and teachers, and reports publicly on the school's website, in a manner that withholds personally identifiable

information was not agreed to by a roll call vote of 16 yeas to 23 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett	X		
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly		X		Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer			
Mr. LaHood		X		Mr. Davis	X		
Dr. Wenstrup		X		Ms. Sánchez	X		
Mr. Arrington				Ms. Sewell	X		
Dr. Ferguson		X		Ms. DelBene	X		
Mr. Estes		X		Ms. Chu	X		
Mr. Smucker		X		Ms. Moore	X		
Mr. Hern		X		Mr. Kildee	X		
Mr. Miller		X		Mr. Beyer	X		
Dr. Murphy		X		Mr. Evans			
Mr. Kustoff		X		Ms. Schneider	X		
Mr. Fitzpatrick				Mr. Panetta	X		
Mr. Steube		X		Mr. Gomez	X		
Ms. Tenney		X		Mr. Horsford	X		
Mrs. Fischbach		X					
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Duyne		X					
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 9462, the "Educational Choice for Children Act of 2024," on September 11, 2024.

The vote on the amendment offered by Mr. Beyer to the amendment in the nature of a substitute to H.R. 9462, which would provide that no amount paid to an elementary or secondary school shall be considered a qualified expense for purposes of this credit unless such school demonstrates that it maintains a policy whereby its admissions standards do not take into account whether a student seeking enrollment has a current individualized education plan, and if a student does not have such a plan, the school abides by the plan's terms and provides services outlined therein was not agreed to by a roll call vote of 16 yeas to 23 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)		X		Mr. Neal	X		
Mr. Buchanan		X		Mr. Doggett	X		
Mr. Smith (NE)		X		Mr. Thompson	X		
Mr. Kelly		X		Mr. Larson	X		
Mr. Schweikert		X		Mr. Blumenauer			
Mr. LaHood		X		Mr. Davis	X		
Dr. Wenstrup		X		Ms. Sánchez	X		
Mr. Arrington				Ms. Sewell	X		
Dr. Ferguson		X		Ms. DelBene	X		
Ms. Estes		X		Ms. Chu	X		
Mr. Smucker		X		Ms. Moore	X		
Mr. Hern		X		Mr. Kildee	X		
Ms. Miller		X		Mr. Beyer	X		
Dr. Murphy		X		Mr. Evans			
Mr. Kustoff		X		Mr. Schneider	X		

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Fitzpatrick				Mr. Panetta	X		
Mr. Steube		X		Mr. Gomez	X		
Ms. Tenney		X		Mr. Horsford	X		
Mrs. Fischbach		X					
Mr. Moore		X					
Mrs. Steel		X					
Ms. Van Duyne		X					
Mr. Feenstra		X					
Ms. Malliotakis		X					
Mr. Carey		X					

In compliance with the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means during the markup consideration of H.R. 9462, the "Educational Choice for Children Act of 2024," on September 11, 2024.

H.R. 9462 was ordered favorably reported to the House of Representatives as amended by a roll call vote of 23 yeas to 16 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)	X			Mr. Neal		X	
Mr. Buchanan	X			Mr. Doggett		X	
Mr. Smith (NE)	X			Mr. Thompson		X	
Mr. Kelly	X			Mr. Larson		X	
Mr. Schweikert	X			Mr. Blumenauer			
Mr. LaHood	X			Mr. Davis		X	
Dr. Wenstrup	X			Ms. Sánchez		X	
Mr. Arrington				Ms. Sewell		X	
Dr. Ferguson	X			Ms. DelBene		X	
Mr. Estes	X			Ms. Chu		X	
Mr. Smucker	X			Ms. Moore		X	
Mr. Hern	X			Mr. Kildee		X	
Ms. Miller	X			Mr. Beyer		X	
Dr. Murphy	X			Mr. Evans			
Mr. Kustoff	X			Mr. Schneider		X	
Mr. Fitzpatrick				Mr. Panetta		X	
Mr. Steube	X			Mr. Gomez		X	
Ms. Tenney	X			Mr. Horsford		X	
Mrs. Fischbach	X						
Mr. Moore	X						
Mrs. Steel	X						
Ms. Van Duyne	X						
Mr. Feenstra	X						
Ms. Malliotakis	X						
Mr. Carey	X						

IV. BUDGET EFFECTS OF THE BILL

A. Committee Estimate of Budgetary Effects

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 9462, as reported. The estimate prepared by the Joint Committee on Taxation (JCT) is included below.

The following table shows the estimated effect of the provision on Federal fiscal year budget receipts.

Fiscal years, billions of dollars—											
2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2025–29	2025–34
.....	−5.5	−4.8	−5.1	−4.2	−0.2	[1]	[1]	[1]	[1]	−19.6	−19.8

NOTE: Details do not add to totals due to rounding.
[1] Loss of less than $50 million.

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority. The Committee further states that the bill includes a new tax expenditure. The table in Part IV.A includes five- and ten-year estimates of the effects of the bill on Federal fiscal year budget receipts.

C. Cost Estimate Prepared by the Congressional Budget Office

The Congressional Budget Act of 1974, as amended, stipulates that revenue estimates provided by the staff of the Joint Committee on Taxation (JCT) will be the official estimates for all tax legislation considered by the Congress. As such, CBO incorporates those estimates into its cost estimates of the effects of legislation. The estimates for the revenue provisions of H.R. 9462 were provided by JCT.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill does not authorize funding, so no statement of general performance goals and objectives is required.

C. Tax Complexity Analysis

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 ("IRS Reform Act") requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses. The staff of the Joint Committee on Taxation has determined that there are no provisions that are of widespread applicability to individuals or small businesses.

D. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

E. Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

F. Duplication of Federal Programs

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

A. Changes in Existing Law Proposed by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows.

Changes in Existing Law Made by the Bill, as Reported

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

* * * * * * *

Subtitle A—Income Taxes

* * * * * * *

CHAPTER 1—NORMAL TAXES AND SURTAXES

* * * * * * *

Subchapter A—DETERMINATION OF TAX LIABILITY

* * * * * * *

PART IV—CREDITS AGAINST TAX

* * * * * * *

Subpart A—NONREFUNDABLE PERSONAL CREDITS

SEC. 25. INTEREST ON CERTAIN HOME MORTGAGES.

(a) ALLOWANCE OF CREDIT.—

(1) IN GENERAL.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the product of—

(A) the certificate credit rate, and

(B) the interest paid or accrued by the taxpayer during the taxable year on the remaining principal of the certified indebtedness amount.

(2) LIMITATION WHERE CREDIT RATE EXCEEDS 20 PERCENT.—

(A) IN GENERAL.—If the certificate credit rate exceeds 20 percent, the amount of the credit allowed to the taxpayer under paragraph (1) for any taxable year shall not exceed $2,000.

(B) SPECIAL RULE WHERE 2 OR MORE PERSONS HOLD INTERESTS IN RESIDENCE.—If 2 or more persons hold interests in any residence, the limitation of subparagraph (A) shall be allocated among such persons in proportion to their respective interests in the residence.

(b) CERTIFICATE CREDIT RATE; CERTIFIED INDEBTEDNESS AMOUNT.—For purposes of this section—

(1) CERTIFICATE CREDIT RATE.—The term "certificate credit rate" means the rate of the credit allowable by this section which is specified in the mortgage credit certificate.

(2) CERTIFIED INDEBTEDNESS AMOUNT.—The term "certified indebtedness amount" means the amount of indebtedness which is—

(A) incurred by the taxpayer—

(i) to acquire the principal residence of the taxpayer,

(ii) as a qualified home improvement loan (as defined in section 143(k)(4)) with respect to such residence, or

(iii) as a qualified rehabilitation loan (as defined in section 143(k)(5)) with respect to such residence, and

(B) specified in the mortgage credit certificate.

(c) MORTGAGE CREDIT CERTIFICATE; QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM.—For purposes of this section—

(1) MORTGAGE CREDIT CERTIFICATE.—The term "mortgage credit certificate" means any certificate which—

(A) is issued under a qualified mortgage credit certificate program by the State or political subdivision having the authority to issue a qualified mortgage bond to provide financing on the principal residence of the taxpayer,

(B) is issued to the taxpayer in connection with the acquisition, qualified rehabilitation, or qualified home improvement of the taxpayer's principal residence,

(C) specifies—

(i) the certificate credit rate, and

(ii) the certified indebtedness amount, and

(D) is in such form as the Secretary may prescribe.

(2) QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM.—

(A) IN GENERAL.—The term "qualified mortgage credit certificate program" means any program—

(i) which is established by a State or political subdivision thereof for any calendar year for which it is authorized to issue qualified mortgage bonds,

(ii) under which the issuing authority elects (in such manner and form as the Secretary may prescribe) not to issue an amount of private activity bonds which it may otherwise issue during such calendar year under section 146,

(iii) under which the indebtedness certified by mortgage credit certificates meets the requirements of the following subsections of section 143 (as modified by subparagraph (B) of this paragraph):

(I) subsection (c) (relating to residence requirements),

(II) subsection (d) (relating to 3-year requirement),

(III) subsection (e) (relating to purchase price requirement),

(IV) subsection (f) (relating to income requirements),

(V) subsection (h) (relating to portion of loans required to be placed in targeted areas), and

(VI) paragraph (1) of subsection (i) (relating to other requirements),

(iv) under which no mortgage credit certificate may be issued with respect to any residence any of the financing of which is provided from the proceeds of a qualified mortgage bond or a qualified veterans' mortgage bond,

(v) except to the extent provided in regulations, which is not limited to indebtedness incurred from particular lenders,

(vi) except to the extent provided in regulations, which provides that a mortgage credit certificate is not transferrable, and

(vii) if the issuing authority allocates a block of mortgage credit certificates for use in connection with

a particular development, which requires the developer to furnish to the issuing authority and the homebuyer a certificate that the price for the residence is no higher than it would be without the use of a mortgage credit certificate.

Under regulations, rules similar to the rules of subparagraphs (B) and (C) of section 143(a)(2) shall apply to the requirements of this subparagraph.

(B) MODIFICATIONS OF SECTION 143.—Under regulations prescribed by the Secretary, in applying section 143 for purposes of subclauses (II), (IV), and (V) of subparagraph (A)(iii)—

(i) each qualified mortgage certificate credit program shall be treated as a separate issue,

(ii) the product determined by multiplying—

(I) the certified indebtedness amount of each mortgage credit certificate issued under such program, by

(II) the certificate credit rate specified in such certificate,

shall be treated as proceeds of such issue and the sum of such products shall be treated as the total proceeds of such issue, and

(iii) paragraph (1) of section 143(d) shall be applied by substituting "100 percent" for "95 percent or more".

Clause (iii) shall not apply if the issuing authority submits a plan to the Secretary for administering the 95-percent requirement of section 143(d)(1) and the Secretary is satisfied that such requirement will be met under such plan.

(d) DETERMINATION OF CERTIFICATE CREDIT RATE.—For purposes of this section—

(1) IN GENERAL.—The certificate credit rate specified in any mortgage credit certificate shall not be less than 10 percent or more than 50 percent.

(2) AGGREGATE LIMIT ON CERTIFICATE CREDIT RATES.—

(A) IN GENERAL.—In the case of each qualified mortgage credit certificate program, the sum of the products determined by multiplying—

(i) the certified indebtedness amount of each mortgage credit certificate issued under such program, by

(ii) the certificate credit rate with respect to such certificate,

shall not exceed 25 percent of the nonissued bond amount.

(B) NONISSUED BOND AMOUNT.—For purposes of subparagraph (A), the term "nonissued bond amount" means, with respect to any qualified mortgage credit certificate program, the amount of qualified mortgage bonds which the issuing authority is otherwise authorized to issue and elects not to issue under subsection (c)(2)(A)(ii).

(e) SPECIAL RULES AND DEFINITIONS.—For purposes of this section—

(1) CARRYFORWARD OF UNUSED CREDIT.—

(A) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the applicable tax limit for such taxable year, such excess shall be a carry-

over to each of the 3 succeeding taxable years and, subject to the limitations of subparagraph (B), shall be added to the credit allowable by subsection (a) for such succeeding taxable year.

(B) LIMITATION.—The amount of the unused credit which may be taken into account under subparagraph (A) for any taxable year shall not exceed the amount (if any) by which the applicable tax limit for such taxable year exceeds the sum of—

(i) the credit allowable under subsection (a) for such taxable year determined without regard to this paragraph, and

(ii) the amounts which, by reason of this paragraph, are carried to such taxable year and are attributable to taxable years before the unused credit year.

(C) APPLICABLE TAX LIMIT.—For purposes of this paragraph, the term "applicable tax limit" means the limitation imposed by section 26(a) for the taxable year reduced by the sum of the credits allowable under this subpart (other than this section and sections 23 [and 25D] *25D, and 25F).*

(2) INDEBTEDNESS NOT TREATED AS CERTIFIED WHERE CERTAIN REQUIREMENTS NOT IN FACT MET.—Subsection (a) shall not apply to any indebtedness if all the requirements of subsection (c)(1), (d), (e), (f), and (i) of section 143 and clauses (iv), (v), and (vii) of subsection (c)(2)(A), were not in fact met with respect to such indebtedness. Except to the extent provided in regulations, the requirements described in the preceding sentence shall be treated as met if there is a certification, under penalty of perjury, that such requirements are met.

(3) PERIOD FOR WHICH CERTIFICATE IN EFFECT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a mortgage credit certificate shall be treated as in effect with respect to interest attributable to the period—

(i) beginning on the date such certificate is issued, and

(ii) ending on the earlier of the date on which—

(I) the certificate is revoked by the issuing authority, or

(II) the residence to which such certificate relates ceases to be the principal residence of the individual to whom the certificate relates.

(B) CERTIFICATE INVALID UNLESS INDEBTEDNESS INCURRED WITHIN CERTAIN PERIOD.—A certificate shall not apply to any indebtedness which is incurred after the close of the second calendar year following the calendar year for which the issuing authority made the applicable election under subsection (c)(2)(A)(ii).

(C) NOTICE TO SECRETARY WHEN CERTIFICATE REVOKED.—Any issuing authority which revokes any mortgage credit certificate shall notify the Secretary of such revocation at such time and in such manner as the Secretary shall prescribe by regulations.

(4) REISSUANCE OF MORTGAGE CREDIT CERTIFICATES.—The Secretary may prescribe regulations which allow the adminis-

trator of a mortgage credit certificate program to reissue a mortgage credit certificate specifying a certified mortgage indebtedness that replaces the outstanding balance of the certified mortgage indebtedness specified on the original certificate to any taxpayer to whom the original certificate was issued, under such terms and conditions as the Secretary determines are necessary to ensure that the amount of the credit allowable under subsection (a) with respect to such reissued certificate is equal to or less than the amount of credit which would be allowable under subsection (a) with respect to the original certificate for any taxable year ending after such reissuance.

(5) PUBLIC NOTICE THAT CERTIFICATES WILL BE ISSUED.—At least 90 days before any mortgage credit certificate is to be issued after a qualified mortgage credit certificate program, the issuing authority shall provide reasonable public notice of—

(A) the eligibility requirements for such certificate,

(B) the methods by which such certificates are to be issued, and

(C) such other information as the Secretary may require.

(6) INTEREST PAID OR ACCRUED TO RELATED PERSONS.—No credit shall be allowed under subsection (a) for any interest paid or accrued to a person who is a related person to the taxpayer (within the meaning of section 144(a)(3)(A)).

(7) PRINCIPAL RESIDENCE.—The term "principal residence" has the same meaning as when used in section 121.

(8) QUALIFIED REHABILITATION AND HOME IMPROVEMENT.—

(A) QUALIFIED REHABILITATION.—The term "qualified rehabilitation" has the meaning given such term by section 143(k)(5)(B).

(B) QUALIFIED HOME IMPROVEMENT.—The term "qualified home improvement" means an alteration, repair, or improvement described in section 143(k)(4).

(9) QUALIFIED MORTGAGE BOND.—The term "qualified mortgage bond" has the meaning given such term by section 143(a)(1).

(10) MANUFACTURED HOUSING.—For purposes of this section, the term "single family residence" includes any manufactured home which has a minimum of 400 square feet of living space and a minimum width in excess of 102 inches and which is of a kind customarily used at a fixed location. Nothing in the preceding sentence shall be construed as providing that such a home will be taken into account in making determinations under section 143.

(f) REDUCTION IN AGGREGATE AMOUNT OF QUALIFIED MORTGAGE BONDS WHICH MAY BE ISSUED WHERE CERTAIN REQUIREMENTS NOT MET.—

(1) IN GENERAL.—If for any calendar year any mortgage credit certificate program which satisfies procedural requirements with respect to volume limitations prescribed by the Secretary fails to meet the requirements of paragraph (2) of subsection (d), such requirements shall be treated as satisfied with respect to any certified indebtedness of such program, but the applicable State ceiling under subsection (d) of section 146 for the State in which such program operates shall be reduced by

1.25 times the correction amount with respect to such failure. Such reduction shall be applied to such State ceiling for the calendar year following the calendar year in which the Secretary determines the correction amount with respect to such failure.

(2) CORRECTION AMOUNT.—

(A) IN GENERAL.—For purposes of paragraph (1), the term "correction amount" means an amount equal to the excess credit amount divided by 0.25.

(B) EXCESS CREDIT AMOUNT.—

(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the term "excess credit amount" means the excess of—

(I) the credit amount for any mortgage credit certificate program, over

(II) the amount which would have been the credit amount for such program had such program met the requirements of paragraph (2) of subsection (d).

(ii) CREDIT AMOUNT.—For purposes of clause (i), the term "credit amount" means the sum of the products determined under clauses (i) and (ii) of subsection (d)(2)(A).

(3) SPECIAL RULE FOR STATES HAVING CONSTITUTIONAL HOME RULE CITIES.—In the case of a State having one or more constitutional home rule cities (within the meaning of section 146(d)(3)(C)), the reduction in the State ceiling by reason of paragraph (1) shall be allocated to the constitutional home rule city, or to the portion of the State not within such city, whichever caused the reduction.

(4) EXCEPTION WHERE CERTIFICATION PROGRAM.—The provisions of this subsection shall not apply in any case in which there is a certification program which is designed to ensure that the requirements of this section are met and which meets such requirements as the Secretary may by regulations prescribe.

(5) WAIVER.—The Secretary may waive the application of paragraph (1) in any case in which he determines that the failure is due to reasonable cause.

(g) REPORTING REQUIREMENTS.—Each person who makes a loan which is a certified indebtedness amount under any mortgage credit certificate shall file a report with the Secretary containing—

(1) the name, address, and social security account number of the individual to which the certificate was issued,

(2) the certificate's issuer, date of issue, certified indebtedness amount, and certificate credit rate, and

(3) such other information as the Secretary may require by regulations.

Each person who issues a mortgage credit certificate shall file a report showing such information as the Secretary shall by regulations prescribe. Any such report shall be filed at such time and in such manner as the Secretary may require by regulations.

(h) REGULATIONS; CONTRACTS.—

(1) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this

section, including regulations which may require recipients of mortgage credit certificates to pay a reasonable processing fee to defray the expenses incurred in administering the program.

(2) CONTRACTS.—The Secretary is authorized to enter into contracts with any person to provide services in connection with the administration of this section.

(i) RECAPTURE OF PORTION OF FEDERAL SUBSIDY FROM USE OF MORTGAGE CREDIT CERTIFICATES.—For provisions increasing the tax imposed by this chapter to recapture a portion of the Federal subsidy from the use of mortgage credit certificates, see section 143(m).

* * * * * * *

SEC. 25F. QUALIFIED ELEMENTARY AND SECONDARY EDUCATION SCHOLARSHIPS.

(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the aggregate amount of qualified contributions made by the taxpayer during the taxable year.

(b) LIMITATIONS.—

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

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

(B) $5,000.

(2) ALLOCATION OF VOLUME CAP.—The credit allowed under subsection (a) to any taxpayer for any taxable year shall not exceed the amount of the volume cap allocated by the Secretary to such taxpayer under subsection (g) with respect to qualified contributions made by the taxpayer during the taxable year.

(3) REDUCTION BASED ON STATE CREDIT.—The amount allowed as a credit under subsection (a) for a taxable year shall be reduced by the amount allowed as a credit on any State tax return of the taxpayer for qualified contributions made by the taxpayer during the taxable year.

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

(1) ELIGIBLE STUDENT.—The term "eligible student" means an individual who—

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

(B) is eligible to enroll in a public elementary or secondary school.

(2) QUALIFIED CONTRIBUTION.—The term "qualified contribution" means a charitable contribution (as defined by section 170(c)) to a scholarship granting organization in the form of cash or marketable securities.

(3) QUALIFIED ELEMENTARY OR SECONDARY EDUCATION EXPENSE.—The term "qualified elementary or secondary education expense" means the following expenses in connection with enrollment or attendance at, or for students enrolled at or attending, an elementary or secondary public, private, or religious school:

(A) Tuition.

(B) Curriculum and curricular materials.

(C) Books or other instructional materials.

(D) Online educational materials.

(E) Tuition for tutoring or educational classes outside of the home, including at a tutoring facility, but only if the tutor or instructor is not related to the student and—

(i) is licensed as a teacher in any State,

(ii) has taught at an eligible educational institution, or

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

(F) Fees for a nationally standardized norm-referenced achievement test, an advanced placement examination, or any examinations related to college or university admission.

(G) Fees for dual enrollment in an institution of higher education.

(H) Educational therapies for students with disabilities provided by a licensed or accredited practitioner or provider, including occupational, behavioral, physical, and speech-language therapies.

Such term shall include expenses for the purposes described in subparagraphs (A) through (H) in connection with a homeschool (whether treated as a homeschool or a private school for purposes of applicable State law).

(4) SCHOLARSHIP GRANTING ORGANIZATION.—The term "scholarship granting organization" means any organization—

(A) which—

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

(ii) is not a private foundation,

(B) substantially all of the activities of which are providing scholarships for qualified elementary or secondary education expenses of eligible students,

(C) which prevents the co-mingling of qualified contributions with other amounts by maintaining one or more separate accounts exclusively for qualified contributions, and

(D) which either—

(i) meets the requirements of subsection (d), or

(ii) pursuant to State law, was able (as of the date of the enactment of this section) to receive contributions that are eligible for a State tax credit if such contributions are used by the organization to provide scholarships to individual elementary and secondary students, including scholarships for attending private schools.

(d) REQUIREMENTS FOR SCHOLARSHIP GRANTING ORGANIZATIONS.—

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

(A) such organization provides scholarships to 2 or more students, provided that not all such students attend the same school,

(B) such organization does not provide scholarships for any expenses other than qualified elementary or secondary education expenses,

(C) such organization provides a scholarship to eligible students with a priority for—

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

(ii) after application of clause (i), any such students who have a sibling who was awarded a scholarship from such organization,

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

(E) such organization takes appropriate steps to verify the annual household income and family size of eligible students to whom it awards scholarships, and limits them to a member of a household for which the income does not exceed the amount established under subsection (c)(1)(A),

(F) such organization—

(i) obtains from an independent certified public accountant annual financial and compliance audits, and

(ii) certifies to the Secretary (at such time, and in such form and manner, as the Secretary may prescribe) that the audit described in clause (i) has been completed, and

(G) no officer or board member of such organization has been convicted of a felony.

(2) INCOME VERIFICATION.—For purposes of paragraph (1)(E), review of all of the following (as applicable) shall be treated as satisfying the requirement to take appropriate steps to verify annual household income:

(A) Federal and State income tax returns or tax return transcripts with applicable schedules for the taxable year prior to application.

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

(C) Notarized income verification letter from employers.

(D) Unemployment or workers compensation statements.

(E) Budget letters regarding public assistance payments and Supplemental Nutrition Assistance Program (SNAP) payments including a list of household members.

(3) INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.—For purposes of paragraph (1)(F), the term "independent certified public accountant" means, with respect to an organization, a certified public accountant who is not a person described in section 465(b)(3)(A) with respect to such organization or any employee of such organization.

(4) PROHIBITION ON SELF-DEALING.—

(A) IN GENERAL.—A scholarship granting organization may not award a scholarship to any disqualified person.

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

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

(f) CARRYFORWARD OF UNUSED CREDIT.—

(1) IN GENERAL.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section, section 23, and section 25D), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

(2) LIMITATION.—No credit may be carried forward under this subsection to any taxable year following the fifth taxable year after the taxable year in which the credit arose. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.

(g) VOLUME CAP.—

(1) IN GENERAL.—The volume cap applicable under this section shall be $5,000,000,000 for each of calendar years 2025 through 2028, and zero for calendar years thereafter. Such amount shall be allocated by the Secretary as provided in paragraph (2) to taxpayers with respect to qualified contributions made by such taxpayers, except that 10 percent of such amount shall be divided evenly among the States, and shall be available with respect to individuals residing in such States.

(2) FIRST-COME, FIRST-SERVE.—For purposes of applying the volume cap under this section, such volume cap for any calendar year shall be allocated by the Secretary on a first-come, first-serve basis, as determined based on the time (during such calendar year) at which the taxpayer made the qualified contribution with respect to which the allocation is made. The Secretary shall not make any allocation of volume cap for any calendar year after December 31 of such calendar year.

(3) REAL-TIME INFORMATION.—For purposes of this section, the Secretary shall develop a system to track the amount of qualified contributions made during the calendar year for which a credit may be claimed under this section, with such information to be updated in real time.

(4) ANNUAL INCREASES.—

(A) IN GENERAL.—In the case of the calendar year after a high use calendar year, the dollar amount otherwise in effect under subsection (a) for such calendar year shall be equal to 105 percent of the dollar amount in effect for such high use calendar year.

(B) HIGH USE CALENDAR YEAR.—For purposes of this subsection, the term "high use calendar year" means any calendar year for which 90 percent or more of the volume cap in effect for such calendar year under subsection (a) is allocated to taxpayers.

(C) PREVENTION OF DECREASES IN ANNUAL VOLUME CAP.—The volume cap in effect under subsection (a) for any calendar year shall not be less than the volume cap in effect under such subsection for the preceding calendar year.

(D) PUBLICATION OF ANNUAL VOLUME CAP.—The Secretary shall make publicly available the dollar amount of the volume cap in effect under subsection (a) for each calendar year.

(5) STATES.—For purposes of this subsection, the term "State" includes the District of Columbia.

* * * * * * *

Subchapter B—COMPUTATION OF TAXABLE INCOME

* * * * * * *

PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

* * * * * * *

SEC. 139J. SCHOLARSHIPS FOR QUALIFIED ELEMENTARY OR SECONDARY EDUCATION EXPENSES OF ELIGIBLE STUDENTS.

(a) IN GENERAL.—In the case of an individual, gross income shall not include any amounts provided to any dependent of such individual pursuant to a scholarship for qualified elementary or secondary education expenses of an eligible student which is provided by a scholarship granting organization.

(b) DEFINITIONS.—In this section, the terms "qualified elementary or secondary education expense", "eligible student", and "scholarship granting organization" have the same meaning given such terms under section 25F(c).

* * * * * * *

Subtitle D—Miscellaneous Excise Taxes

* * * * * * *

CHAPTER 42—PRIVATE FOUNDATIONS; AND CERTAIN OTHER TAX-EXEMPT ORGANIZATIONS

Subchapter I—Scholarship Granting Organizations

SEC. 4969. FAILURE TO DISTRIBUTE RECEIPTS.

(a) IN GENERAL.—In the case of any scholarship granting organization (as defined in section 25F) which has been determined by the Secretary to have failed to satisfy the requirement under subsection

(b) for any taxable year, any contribution made to such organization during the first taxable year beginning after the date of such determination shall not be treated as a qualified contribution (as defined in section 25F(c)(2)) for purposes of section 25F.

(b) REQUIREMENT.—The requirement described in this subsection is that the amount of receipts of the scholarship granting organization for the taxable year which are distributed before the distribution deadline with respect to such receipts shall not be less than the required distribution amount with respect to such taxable year.

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

(1) REQUIRED DISTRIBUTION AMOUNT.—

(A) IN GENERAL.—The required distribution amount with respect to a taxable year is the amount equal to 100 percent of the total receipts of the scholarship granting organization for such taxable year—

(i) reduced by the sum of such receipts that are retained for reasonable administrative expenses for the taxable year or are carried to the succeeding taxable year under subparagraph (C), and

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

(B) SAFE HARBOR FOR REASONABLE ADMINISTRATIVE EXPENSES.—For purposes of subparagraph (A)(i), if the percentage of total receipts of a scholarship granting organization for a taxable year which are used for administrative purposes is equal to or less than 10 percent, such expenses shall be deemed to be reasonable for purposes of such subparagraph.

(C) CARRYOVER.—With respect to the amount of the total receipts of a scholarship granting organization with respect to any taxable year, an amount not greater than 15 percent of such amount may, at the election of such organization, be carried to the succeeding taxable year.

(2) DISTRIBUTIONS.—The term "distribution" includes amounts which are formally committed but not distributed. A formal commitment described in the preceding sentence may include contributions set aside for eligible students for more than one year.

(3) DISTRIBUTION DEADLINE.—The distribution deadline with respect to receipts for a taxable year is the first day of the third taxable year following the taxable year in which such receipts are received by the scholarship granting organization.

* * * * * * *

VII. EXCHANGE OF LETTERS

MAJORITY MEMBERS:

VIRGINIA FOXX, NORTH CAROLINA,
Chairwoman

JOE WILSON, SOUTH CAROLINA
GLENN THOMPSON, PENNSYLVANIA
TIM WALBERG, MICHIGAN
GLENN GROTHMAN, WISCONSIN
ELISE M. STEFANIK, NEW YORK
RICK W. ALLEN, GEORGIA
JIM BANKS, INDIANA
JAMES COMER, KENTUCKY
LLOYD SMUCKER, PENNSYLVANIA
BURGESS OWENS, UTAH
BOB GOOD, VIRGINIA
LISA C. MCCLAIN, MICHIGAN
MARY E. MILLER, ILLINOIS
MICHELLE STEEL, CALIFORNIA
RON ESTES, KANSAS
JULIA LETLOW, LOUISIANA
KEVIN KILEY, CALIFORNIA
AARON BEAN, FLORIDA
ERIC BURLISON, MISSOURI
NATHANIEL MORAN, TEXAS
LORI CHAVEZ-DEREMER, OREGON
BRANDON WILLIAMS, NEW YORK
ERIN HOUCHIN, INDIANA
VACANCY

COMMITTEE ON
EDUCATION AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES
2176 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6100

MINORITY MEMBERS:

ROBERT C. "BOBBY" SCOTT, VIRGINIA,
Ranking Member

RAÚL M. GRIJALVA, ARIZONA
JOE COURTNEY, CONNECTICUT
GREGORIO KILILI CAMACHO SABLAN,
NORTHERN MARIANA ISLANDS
FREDERICA S. WILSON, FLORIDA
SUZANNE BONAMICI, OREGON
MARK TAKANO, CALIFORNIA
ALMA S. ADAMS, NORTH CAROLINA
MARK DESAULNIER, CALIFORNIA
DONALD NORCROSS, NEW JERSEY
PRAMILA JAYAPAL, WASHINGTON
SUSAN WILD, PENNSYLVANIA
LUCY MCBATH, GEORGIA
JAHANA HAYES, CONNECTICUT
ILHAN OMAR, MINNESOTA
HALEY M. STEVENS, MICHIGAN
TERESA LEGER FERNÁNDEZ,
NEW MEXICO
KATHY E. MANNING, NORTH CAROLINA
FRANK J. MRVAN, INDIANA
JAMAAL BOWMAN, NEW YORK

September 25, 2024

The Honorable Jason Smith, Chairman
Committee on Ways & Means
1139 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

This letter confirms our mutual understanding regarding H.R. 9462, the "Educational Choice for Children Act of 2024". Thank you for collaborating with the Committee on Education and the Workforce on matters within our jurisdiction.

The Committee on Education and the Workforce will forego any further consideration of this bill. However, by foregoing consideration at this time, we do not waive any jurisdiction over any subject matter contained in this or similar legislation. The Committee on Education & the Workforce also reserves the right to seek appointment of an appropriate number of conferees should it become necessary and ask that you support such a request.

We would appreciate a response to this letter confirming this understanding with respect to H.R. 9462 and request a copy of our letters on this matter be published in the Congressional Record during Floor consideration.

Sincerely,

Virginia Foxx

Virginia Foxx
Chairwoman

cc: The Honorable Robert C. "Bobby" Scott, Ranking Member, Committee on Education and the Workforce
The Honorable Richard E. Neal, Ranking Member, Committee on Ways and Means
The Honorable Mike Johnson, Speaker of the House
The Honorable Jason Smith, Parliamentarian, U. S. House of Representatives

JASON SMITH
MISSOURI,
CHAIRMAN
MARK ROMAN, STAFF DIRECTOR
(202) 225-3625

RICHARD E. NEAL
MASSACHUSETTS,
RANKING MEMBER
BRANDON CASEY, STAFF DIRECTOR
(202) 225-4021

U.S. House of Representatives
COMMITTEE ON WAYS AND MEANS
1139 LONGWORTH HOUSE OFFICE BUILDING
Washington, DC 20515

October 2, 2024

The Honorable Virginia Foxx
Chairwoman
Committee on Education and the Workforce
2176 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairwoman Foxx,

Thank you for your letter regarding the Education and the Workforce Committee's jurisdictional interest in H.R. 9462, the "Educational Choice for Children Act of 2024", and your willingness to forego consideration by your committee.

I agree that the Committee on Education and the Workforce has a valid jurisdictional interest in certain provisions of the bill and that the Committee's jurisdiction will not be adversely affected by your decision to forego consideration. As you have requested, I will support your request for an appropriate appointment of outside conferees from your committee in the event of a House-Senate conference on this or similar legislation should such a conference be convened.

Finally, I will include a copy of your letter and this response in the Congressional Record during the floor consideration of the bill. Thank you again for your cooperation.

Sincerely,

Jason Smith
Chairman
Committee on Ways and Means

cc: The Honorable Mike Johnson, Speaker
The Honorable Richard E. Neal
The Honorable Robert C. "Bobby" Scott
Jason Smith, Parliamentarian

VIII. DISSENTING VIEWS

Committee Democrats oppose H.R. 9462 because it seeks to defund our public schools while simultaneously enriching private schools and wealthy taxpayers. This bill is presented as school choice; however, it is about eroding our public schools and undermines institutions essential for our democracy. Without the necessary and proper funding for our public schools we could see overcrowding in classrooms, fewer teachers, and narrowed opportunities for those children who rely on our public schools.

H.R. 9462 provides a pot of $5 billion per year of federal taxpayer dollars to fund tax credits for donations to private school scholarship programs. Specifically, it allows taxpayers to receive a 100 percent credit against their tax liability for contributions to a private school scholarship program. Contributions can be in the form of cash or marketable securities.

As pointed out numerous times in the Committee markup, this credit's structure allows taxpayers to profit from these "charitable donations." For instance, wealthy taxpayers receive a significant double-benefit by being allowed to contribute appreciated securities, essentially allowing taxpayers to cash out capital gains without paying any capital gains taxes. Additionally, although the bill reduces the amount of the Federal credit by any state credit, it doesn't account for any of the numerous state benefits that could be offered (such as a state charitable deduction, which is already provided in most states with an income tax).

More broadly, however, Committee Democrats oppose this convoluted tax credit system which is designed, at its core, to divert funds from the public school system. We have a responsibility to invest in a public education that serves all and is held accountable for student well-being and success. We must fully fund Title I schools which serve our most vulnerable students and provide high-quality education for all students. The Majority abandons this responsibility, siphoning Federal funds to private school, while allowing so-called "donors" to profit from the checks they are cutting to private schools.

For these reasons, we oppose this bill.

RICHARD E. NEAL,
Ranking Member.

DISSENTING VIEWS

Once again, we have before us an extreme proposal that doubles down on Republican efforts to defund and to devalue our public schools. This is really a companion piece of legislation to their current federal government funding proposal. House Republicans would cut the Department of Education and slash Title I funding for teachers by almost $5 billion dollars. This could mean 72,000 fewer public-school teachers to help our children learn to have the skills to be successful. They say we can't afford this, but they can afford to provide this strange tax credit to encourage people to choose private over public education.

And of course, this is just the first step, because under Trump's Project 2025, their blueprint for what these Republicans plan to do to America next year, they will eliminate the Department of Education and they will eliminate all Title I funding. This bill presented as a school choice is really only about eroding support for our public schools. It establishes what is a federalized voucher program that would pull needed resources from public schools in many situations just to reward and reimburse some well-connected parents for their private school tuition. The opportunity this bill actually advances has less funding, fewer teachers, more crowded classrooms, and narrowed opportunities for the 90% of our nation's children that rely on public schools.

Texas is a great example of a state that has starved public schools for student funding—under Governor Greg Abbott has fallen to more than $4,000 below the national average. We rank 44th among the states. Average teacher pay in Texas has dropped to more than $7,000 below the national average. And Governor Abbott has blocked school funding and much-needed teacher pay raises because a few courageous Republican legislators joined all Democrats to reject his voucher giveaway proposal. In Austin, Texas, my hometown, the school board, like school boards across Texas, has faced a budget crisis forced to make substantial cuts and even to place on the ballot a property tax increase to try to get by until reality provides a better solution in a future legislature.

The one solution to the chronic underfunding of public schools that has been offered has been this voucher program. And, as I said in our public hearing, some of the strongest words about the harm that programs like this bill would accomplish come from Republicans—state Republican representatives. Dr, Gary Vandeaver, a Republican from Northeast Texas, says "if I were to use three adjectives to describe myself politically, I would say Conservative, Christian, and Texan. In short, I oppose vouchers. As a fiscal conservative, I cannot support creating a second parallel education system."

Drew Darby, from San Angelo, Texas, a Republican state representative in another Trump district: "it is objectionable to take

dollars out of public schools and support parochial schools that don't have the same accountability, the same testing, and the same transparency. Ken King, a Republican from Canadian in the Texas Panhandle: "it's horrible for rural Texas—the only people it's going to help are the kids who don't need the help. This is not going to help the kids in my district who truly need help."

The original version of this proposal co-sponsored by 153 Republicans cost $100 billion dollars if you can believe the estimate—all unpaid for, not a dime paid for. All these fiscal conservatives don't mind adding more and more to our national debt. But, like other Republican tax schemes, this has been disguised by providing a shorter term to be extended permanently.

Finally, part of the disguise is the way this particular Bill seeks to circumvent the First Amendment requirement of a separation of church and state because it does not provide direct vouchers because that would clearly be unconstitutional. It attempts to do this with this unprecedented use of the form of indirect voucher that is provided here it has the parent of a religious school child donate to a charity. The charity launders the donation and uses it to pay for the child's tuition, all in an attempt to avoid the command of the First Amendment of the United States, the Bill of Rights. It should be rejected.

LLOYD DOGGETT.

○