

116TH CONGRESS
2D SESSION

S. 4505

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

IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2020

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

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Coronavirus Emer-
5 gency Education Grants Act”.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (c) DEFINITIONS.—In this section:

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

14 (A) means—

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

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

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

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

(v) tuition for tutoring or elementary or secondary 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 as established by the Secretary; or

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

(vi) fees for a nationally standardized norm-referenced achievement test, an advanced placement examination, or any examination related to admission to an institution of higher education;

(vii) fees for dual enrollment in an institution of higher education; and

(viii) educational therapies for students with disabilities provided by a licensed or accredited practitioner or provider, including occupational, behavioral,

1 physical, and speech-language therapies;
 2 and

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

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

11 (d) AUTHORIZATION AND APPROPRIATION.—

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

18 (2) EMERGENCY DESIGNATION.—

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

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

agency requirement pursuant to section 4112(a) of H. Con. Res. 71 (115th Congress), the concurrent resolution on the budget for fiscal year 2018.

SEC. 3. EDUCATION FREEDOM SCHOLARSHIPS AND OPPORTUNITY.

(a) EMERGENCY EDUCATION FREEDOM GRANTS.—

(1) DEFINITIONS.—In this subsection:

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

(B) EMERGENCY EDUCATION FREEDOM GRANT FUNDS.—The term “emergency education freedom grant funds” means the amount of funds available under paragraph (2)(A) for this subsection that are not reserved under paragraph (3)(A)(i).

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

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

(2) GRANTS.—

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

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

18 (3) RESERVATION AND ALLOTMENTS.—

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

22 (i) reserve—

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

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

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

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

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

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

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

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

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

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

6 (B) INITIAL TIMING.—

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

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

(C) USES OF FUNDS.—An eligible scholarship-granting organization that receives a subgrant under this paragraph—

(i) may reserve not more than 5 percent of the subgrant funds for public outreach, student and family support activities, and administrative expenses related to the subgrant; and

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

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

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

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

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

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

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

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

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

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

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

4 “(A) an organization that—

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

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

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

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

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

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

1 “(v) provides qualifying scholarships
2 to—

3 “(I) more than 1 eligible student,

4 “(II) more than 1 eligible family,

5 and

6 “(III) different eligible students

7 attending more than 1 education pro-

8 vider, or

9 “(B) an organization that—

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

11 and exempt from taxation under section

12 501(a), and

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

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

15 tions that are eligible for a State tax credit

16 if such contributions are used by the orga-

17 nization to provide scholarships to indi-

18 vidual elementary and secondary students,

19 including scholarships for attending private

20 schools.

21 “(2) QUALIFIED CONTRIBUTION.—The term

22 ‘qualified contribution’ means a contribution of cash

23 to any eligible scholarship-granting organization.

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

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

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

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

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

25 “(d) RULES OF CONSTRUCTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (i) student eligibility;

5 (ii) allowable educational expenses;

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

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

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

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

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

(A) NATIONAL LIMITATION.—For each fiscal year, the total amount of qualifying contributions for which a credit is allowed under sections 25E and 45U of the Internal Revenue Code of 1986 shall not exceed \$5,000,000,000.

(B) ALLOCATION OF LIMITATION.—

(i) INITIAL ALLOCATIONS.—For each calendar year, with respect to the limitation under subparagraph (A), the Secretary of the Treasury, in consultation with the Secretary of Education, shall—

(I) allocate to each State an amount equal to the sum of the qualifying contributions made in the State in the previous year; and

(II) from any amounts remaining following allocations made under subclause (I), allocate to each participating State an amount equal to the sum of—

(aa) an amount that bears the same relationship to 20 percent of such remaining amount as the number of individuals aged 5 through 17 in the State,

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

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

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

24 (iii) ALTERNATIVE ALLOCATION.—

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

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

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

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

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

17 (III) ALLOCATION FORMULA.—

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

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

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

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

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

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

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

6 (E) ALLOCATION AND ADJUSTMENTS.—

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

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

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

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

(II) RULE OF CONSTRUCTION.—

Neither this subsection nor any other Federal law shall be construed as limiting the entities that may submit the list on behalf of a State.

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

(I) chooses not to identify scholarship-granting organizations under clause (ii) in any applicable year; or

(II) does not have an existing eligible scholarship-granting organization.

(iv) REALLOCATION.—On or after April 1 of any applicable year, the Secretary of the Treasury may reallocate, to 1 or more other States that have eligible scholarship-granting organizations in the States, without regard to subparagraph

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

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

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