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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of Nebraska introduced the following bill; which was referred to the Committee on _____

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Educational Choice
5 for Children Act of 2025”.

1 **SEC. 2. TAX CREDIT FOR CONTRIBUTIONS TO SCHOLAR-**
2 **SHIP GRANTING ORGANIZATIONS.**

3 (a) CREDIT FOR INDIVIDUALS.—

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

8 **“SEC. 25F. QUALIFIED ELEMENTARY AND SECONDARY EDU-**
9 **CATION SCHOLARSHIPS.**

10 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
11 dividual who is a citizen or resident of the United States
12 (as defined in section 7701(a)(9)), there shall be allowed
13 as a credit against the tax imposed by this chapter for
14 the taxable year an amount equal to the aggregate amount
15 of qualified contributions made by the taxpayer during the
16 taxable year.

17 “(b) LIMITATIONS.—

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

21 “(A) 10 percent of the adjusted gross in-
22 come of the taxpayer for the taxable year, or

23 “(B) \$5,000.

24 “(2) ALLOCATION OF VOLUME CAP.—The credit
25 allowed under subsection (a) to any taxpayer for any
26 taxable year shall not exceed the amount of the vol-

1 ume cap allocated by the Secretary to such taxpayer
2 under section 3 of the Educational Choice for Chil-
3 dren Act of 2025 with respect to qualified contribu-
4 tions made by the taxpayer during the taxable year.

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

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

12 “(1) ELIGIBLE STUDENT.—The term ‘eligible
13 student’ means an individual who—

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

18 “(B) is eligible to enroll in a public ele-
19 mentary or secondary school.

20 “(2) QUALIFIED CONTRIBUTION.—The term
21 ‘qualified contribution’ means a charitable contribu-
22 tion (as defined by section 170(c)) to a scholarship
23 granting organization in the form of cash or market-
24 able securities.

1 “(3) QUALIFIED ELEMENTARY OR SECONDARY
2 EDUCATION EXPENSE.—The term ‘qualified elemen-
3 tary or secondary education expense’ means the fol-
4 lowing expenses in connection with enrollment or at-
5 tendance at, or for students enrolled at or attending,
6 a public or private elementary or secondary school
7 (including a religious elementary or secondary
8 school):

9 “(A) Tuition.

10 “(B) Curricula and curricular materials.

11 “(C) Books or other instructional mate-
12 rials.

13 “(D) Online educational materials.

14 “(E) Tuition for tutoring or educational
15 classes outside of the home, including at a tu-
16 toring facility, but only if the tutor or instruc-
17 tor is not related to the student and—

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

20 “(ii) has taught at an institution of
21 higher education (as defined in section
22 101(a) of the Higher Education Act (20
23 U.S.C. 1001(a)), or

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

1 “(F) Fees for a nationally standardized
2 norm-referenced achievement test, an advanced
3 placement examination, or any examinations re-
4 lated to admission to an institution of higher
5 education.

6 “(G) Fees for dual enrollment in an insti-
7 tution of higher education.

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

13 Such term shall include expenses for the purposes
14 described in subparagraphs (A) through (H) in con-
15 nection with a home school (whether treated as a
16 home school or a private school for purposes of ap-
17 plicable State law).

18 “(4) SCHOLARSHIP GRANTING ORGANIZA-
19 TION.—The term ‘scholarship granting organization’
20 means any organization—

21 “(A) which—

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

25 “(ii) is not a private foundation,

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

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

9 “(D) which either—

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

12 “(ii) pursuant to State law, was able
13 (as of the date of the enactment of this
14 section) to receive contributions that are
15 eligible for a State tax credit if such con-
16 tributions are used by the organization to
17 provide scholarships to individual elemen-
18 tary and secondary students, including
19 scholarships for attending private schools.

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

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

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

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

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

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

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

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

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

1 “(F) such organization—

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

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

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

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

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

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

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

1 “(D) Unemployment or workers compensa-
2 tion statements.

3 “(E) Budget letters regarding public as-
4 sistance payments and Supplemental Nutrition
5 Assistance Program (SNAP) payments includ-
6 ing a list of household members.

7 “(3) INDEPENDENT CERTIFIED PUBLIC AC-
8 COUNTANT.—For purposes of paragraph (1)(F), the
9 term ‘independent certified public accountant’
10 means, with respect to an organization, a certified
11 public accountant who is not a person described in
12 section 465(b)(3)(A) with respect to such organiza-
13 tion or any employee of such organization.

14 “(4) PROHIBITION ON SELF-DEALING.—

15 “(A) IN GENERAL.—A scholarship grant-
16 ing organization may not award a scholarship
17 to any disqualified person.

18 “(B) DISQUALIFIED PERSON.—For pur-
19 poses of this paragraph, a disqualified person
20 shall be determined pursuant to rules similar to
21 the rules of section 4946.

22 “(e) DENIAL OF DOUBLE BENEFIT.—Any qualified
23 contribution for which a credit is allowed under this sec-
24 tion shall not be taken into account as a charitable con-
25 tribution for purposes of section 170.

1 “(f) CARRYFORWARD OF UNUSED CREDIT.—

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

10 “(2) LIMITATION.—No credit may be carried
11 forward under this subsection to any taxable year
12 following the fifth taxable year after the taxable year
13 in which the credit arose. For purposes of the pre-
14 ceding sentence, credits shall be treated as used on
15 a first-in first-out basis.”.

16 (2) CONFORMING AMENDMENTS.—

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

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

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

24 (b) CREDIT FOR CORPORATIONS.—

1 (1) IN GENERAL.—Subpart D of part IV of
2 subchapter A of chapter 1 of the Internal Revenue
3 Code of 1986 is amended by adding after section
4 45AA the following:

5 **“SEC. 45BB. CONTRIBUTIONS TO SCHOLARSHIP GRANTING**
6 **ORGANIZATIONS.**

7 “(a) GENERAL RULE.—For purposes of section 38,
8 in the case of a corporation, the education scholarship
9 credit determined under this section for the taxable year
10 is the aggregate amount of qualified contributions for the
11 taxable year.

12 “(b) AMOUNT OF CREDIT.—The credit allowed under
13 subsection (a) for any taxable year shall not exceed 5 per-
14 cent of the taxable income (as defined in section
15 170(b)(2)(D)) of the corporation for such taxable year.

16 “(c) QUALIFIED CONTRIBUTIONS.—For purposes of
17 this section, the term ‘qualified contribution’ has the
18 meaning given such term under section 25F.

19 “(d) DENIAL OF DOUBLE BENEFIT.—No deduction
20 shall be allowed under any provision of this chapter for
21 any expense for which a credit is allowed under this sec-
22 tion.

23 “(e) APPLICATION OF VOLUME CAP.—A qualified
24 contribution shall be taken into account under this section
25 only if such contribution is not in excess of the volume

1 cap established under section 3 of the Educational Choice
2 for Children Act of 2025.”.

3 (2) CONFORMING AMENDMENTS.—Section
4 38(b) of such Code is amended by striking “plus” at
5 the end of paragraph (40), by striking the period
6 and inserting “, plus” at the end of paragraph (41),
7 and by adding at the end the following new para-
8 graph:

9 “(42) the education scholarship credit deter-
10 mined under section 45BB(a).”.

11 (3) CLERICAL AMENDMENT.—The table of sec-
12 tions for subpart D of part IV of subchapter A of
13 chapter 1 of such Code is amended by adding at the
14 end the following new item:

“Sec. 45BB. Contributions to scholarship granting organizations.”.

15 (c) FAILURE OF SCHOLARSHIP GRANTING ORGANI-
16 ZATIONS TO MAKE DISTRIBUTIONS.—

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

20 **“Subchapter I—Scholarship Granting**
21 **Organizations**

“Sec. 4969. Failure to distribute receipts.

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

23 “(a) IN GENERAL.—In the case of any scholarship
24 granting organization (as defined in section 25F) which

1 has been determined by the Secretary to have failed to
2 satisfy the requirement under subsection (b) for any tax-
3 able year, any contribution made to such organization dur-
4 ing the first taxable year beginning after the date of such
5 determination shall not be treated as a qualified contribu-
6 tion (as defined in section 25F(c)(2)) for purposes of sec-
7 tions 25F and 45BB.

8 “(b) REQUIREMENT.—The requirement described in
9 this subsection is that the amount of receipts of the schol-
10 arship granting organization for the taxable year which
11 are distributed before the distribution deadline with re-
12 spect to such receipts shall not be less than the required
13 distribution amount with respect to such taxable year.

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

15 “(1) REQUIRED DISTRIBUTION AMOUNT.—

16 “(A) IN GENERAL.—The required distribu-
17 tion amount with respect to a taxable year is
18 the amount equal to 100 percent of the total re-
19 cepts of the scholarship granting organization
20 for such taxable year—

21 “(i) reduced by the sum of such re-
22 cepts that are retained for reasonable ad-
23 ministrative expenses for the taxable year
24 or are carried to the succeeding taxable
25 year under subparagraph (C), and

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

4 “(B) SAFE HARBOR FOR REASONABLE AD-
5 MINISTRATIVE EXPENSES.—For purposes of
6 subparagraph (A)(i), if the percentage of total
7 receipts of a scholarship granting organization
8 for a taxable year which are used for adminis-
9 trative purposes is equal to or less than 10 per-
10 cent, such expenses shall be deemed to be rea-
11 sonable for purposes of such subparagraph.

12 “(C) CARRYOVER.—With respect to the
13 amount of the total receipts of a scholarship
14 granting organization with respect to any tax-
15 able year, an amount not greater than 15 per-
16 cent of such amount may, at the election of
17 such organization, be carried to the succeeding
18 taxable year.

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

24 “(3) DISTRIBUTION DEADLINE.—The distribu-
25 tion deadline with respect to receipts for a taxable

1 year is the first day of the third taxable year fol-
2 lowing the taxable year in which such receipts are
3 received by the scholarship granting organization.”.

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

“SUBCHAPTER I. SCHOLARSHIP GRANTING ORGANIZATIONS”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years ending after De-
9 cember 31, 2025.

10 **SEC. 3. VOLUME CAP.**

11 (a) IN GENERAL.—For purposes of sections
12 25F(b)(2) and 45BB(e) of the Internal Revenue Code of
13 1986 (as added by this Act), the volume cap applicable
14 under this section shall be \$10,000,000,000 for calendar
15 year 2026 and each subsequent year thereafter. Such
16 amount shall be allocated by the Secretary as provided in
17 subsection (b) to taxpayers with respect to qualified con-
18 tributions made by such taxpayers, except that 10 percent
19 of such amount shall be divided evenly among the States,
20 and shall be available with respect to—

21 (1) individuals residing in such States to claim
22 the credit allowed under section 25F of the Internal
23 Revenue Code of 1986, and

1 (2) corporations created or organized in such
2 State to claim the credit determined under section
3 45BB of such Code.

4 (b) FIRST-COME, FIRST-SERVE.—For purposes of ap-
5 plying the volume cap under this section, such volume cap
6 for any calendar year shall be allocated by the Secretary
7 on a first-come, first-serve basis, as determined based on
8 the time (during such calendar year) at which the tax-
9 payer made the qualified contribution with respect to
10 which the allocation is made. The Secretary shall not make
11 any allocation of volume cap for any calendar year after
12 December 31 of such calendar year.

13 (c) REAL-TIME INFORMATION.—For purposes of this
14 section, the Secretary shall develop a system to track the
15 amount of qualified contributions made during the cal-
16 endar year for which a credit may be claimed under sec-
17 tion 25F or 45BB of the Internal Revenue Code of 1986,
18 with such information to be updated in real time.

19 (d) ANNUAL INCREASES.—

20 (1) IN GENERAL.—In the case of the calendar
21 year after a high use calendar year, the dollar
22 amount otherwise in effect under subsection (a) for
23 such calendar year shall be equal to 105 percent of
24 the dollar amount in effect for such high use cal-
25 endar year.

1 (2) HIGH USE CALENDAR YEAR.—For purposes
2 of this subsection, the term “high use calendar
3 year” means any calendar year for which 90 percent
4 or more of the volume cap in effect for such cal-
5 endar year under subsection (a) is allocated to tax-
6 payers.

7 (3) PREVENTION OF DECREASES IN ANNUAL
8 VOLUME CAP.—The volume cap in effect under sub-
9 section (a) for any calendar year shall not be less
10 than the volume cap in effect under such subsection
11 for the preceding calendar year.

12 (4) PUBLICATION OF ANNUAL VOLUME CAP.—
13 The Secretary shall make publicly available the dol-
14 lar amount of the volume cap in effect under sub-
15 section (a) for each calendar year.

16 (e) STATES.—For purposes of this section, the term
17 “State” includes the District of Columbia.

18 **SEC. 4. EXEMPTION FROM GROSS INCOME FOR SCHOLAR-**
19 **SHIPS FOR QUALIFIED ELEMENTARY OR SEC-**
20 **ONDARY EDUCATION EXPENSES OF ELIGIBLE**
21 **STUDENTS.**

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

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

4 “(a) IN GENERAL.—In the case of an individual,
5 gross income shall not include any amounts provided to
6 any dependent of such individual pursuant to a scholar-
7 ship for qualified elementary or secondary education ex-
8 penses of an eligible student which is provided by a schol-
9 arship granting organization.

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

14 (b) CONFORMING AMENDMENT.—The table of sec-
15 tions for part III of subchapter B of chapter 1 of the In-
16 ternal Revenue Code of 1986 is amended by inserting be-
17 fore the item relating to section 140 the following new
18 item:

“Sec. 139J. Scholarships for qualified elementary or secondary education ex-
penses of eligible students.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to amounts received after Decem-
21 ber 31, 2025, in taxable years ending after such date.

22 **SEC. 5. ORGANIZATIONAL AND PARENTAL AUTONOMY.**

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

1 (1) IN GENERAL.—

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

7 (B) NO GOVERNMENTAL CONTROL.—Noth-
8 ing in this Act, or any amendment made by this
9 Act, shall be construed to permit, allow, encour-
10 age, or authorize any Federal, State, or local
11 government entity, or officer or employee there-
12 of, to mandate, direct, or control any aspect of
13 any scholarship granting organization.

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

20 (2) PROHIBITION OF CONTROL OVER NON-PUB-
21 LIC SCHOOLS.—

22 (A) NO GOVERNMENTAL CONTROL.—Noth-
23 ing in this Act, or any amendment made by this
24 Act, shall be construed to permit, allow, encour-
25 age, or authorize any Federal, State, or local

1 government entity, or officer or employee there-
2 of, to mandate, direct, or control any aspect of
3 any private or religious elementary or secondary
4 education institution.

5 (B) NO EXCLUSION OF PRIVATE OR RELI-
6 GIOUS SCHOOLS.—No Federal, State, or local
7 government entity, or officer or employee there-
8 of, shall impose or permit the imposition of any
9 conditions or requirements that would exclude
10 or operate to exclude educational expenses at
11 private or religious elementary and secondary
12 education institutions from being considered
13 qualified elementary or secondary education ex-
14 penses.

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

1 character or affiliation, including religiously
2 based or mission-based policies or practices.

3 (3) PARENTAL RIGHTS TO USE SCHOLAR-
4 SHIPS.—No Federal, State, or local government en-
5 tity, or officer or employee thereof, shall disfavor or
6 discourage the use of scholarships granted by par-
7 ticipating scholarship granting organizations for
8 qualified elementary or secondary education ex-
9 penses at private or nonprofit elementary and sec-
10 ondary education institutions, including faith-based
11 schools.

12 (4) PARENTAL RIGHT TO INTERVENE.—In any
13 action filed in any State or Federal court which
14 challenges the constitutionality (under the constitu-
15 tion of such State or the Constitution of the United
16 States) of any provision of this Act (or any amend-
17 ment made by this Act), any parent of an eligible
18 student who has received a scholarship from a schol-
19 arship granting organization shall have the right to
20 intervene in support of the constitutionality of such
21 provision or amendment. To avoid duplication of ef-
22 forts and reduce the burdens placed on the parties
23 to the action, the court in any such action may re-
24 quire interveners taking similar positions to file joint
25 papers or to be represented by a single attorney at

1 oral argument, provided that the court does not re-
2 quire such interveners to join any brief filed on be-
3 half of any State which is a defendant in such ac-
4 tion.

5 (b) DEFINITIONS.—For purposes of this section, the
6 terms “eligible student”, “scholarship granting organiza-
7 tion”, and “qualified elementary or secondary education
8 expense” shall have the same meanings given such terms
9 under section 25F(c) of the Internal Revenue Code of
10 1986 (as added by section 2(a) of this Act).