

118TH CONGRESS  
2D SESSION

# 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.

---

## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 6, 2024

Mr. SMITH of Nebraska (for himself, Mr. OWENS, Ms. FOXX, Mr. KELLY of Pennsylvania, Mr. YAKYM, Mr. JORDAN, Mr. RESCHENTHALER, Mr. DONALDS, Mr. FEENSTRA, Ms. MALLIOTAKIS, and Ms. TENNEY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## 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 2024”.

1 **SEC. 2. TAX CREDIT FOR CONTRIBUTIONS OF INDIVIDUALS**  
2 **TO SCHOLARSHIP GRANTING ORGANIZA-**  
3 **TIONS.**

4 (a) ALLOWANCE OF CREDIT.—

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

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

11 “(a) ALLOWANCE OF CREDIT.—In the case of an in-  
12 dividual, there shall be allowed as a credit against the tax  
13 imposed by this chapter for the taxable year an amount  
14 equal to the aggregate amount of qualified contributions  
15 made by the taxpayer during the taxable year.

16 “(b) LIMITATIONS.—

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

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

22 “(B) \$5,000.

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

1 under subsection (g) with respect to qualified con-  
2 tributions made by the taxpayer during the taxable  
3 year.

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

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

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

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

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

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

24 “(3) QUALIFIED ELEMENTARY OR SECONDARY  
25 EDUCATION EXPENSE.—The term ‘qualified elemen-

1        tary or secondary education expense’ means the fol-  
2        lowing expenses in connection with enrollment or at-  
3        tendance at, or for students enrolled at or attending,  
4        an elementary or secondary public, private, or reli-  
5        gious school:

6                “(A) Tuition.

7                “(B) Curriculum and curricular materials.

8                “(C) Books or other instructional mate-  
9        rials.

10               “(D) Online educational materials.

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

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

17                “(ii) has taught at an eligible edu-  
18        cational institution, or

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

21               “(F) Fees for a nationally standardized  
22        norm-referenced achievement test, an advanced  
23        placement examination, or any examinations re-  
24        lated to college or university admission.

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

3           “(H) Educational therapies for students  
4           with disabilities provided by a licensed or ac-  
5           credited practitioner or provider, including oc-  
6           cupational, behavioral, physical, and speech-lan-  
7           guage therapies.

8           Such term shall include expenses for the purposes  
9           described in subparagraphs (A) through (H) in con-  
10          nection with a homeschool (whether treated as a  
11          homeschool or a private school for purposes of appli-  
12          cable State law).

13          “(4) SCHOLARSHIP GRANTING ORGANIZA-  
14          TION.—The term ‘scholarship granting organization’  
15          means any organization—

16                 “(A) which—

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

20                         “(ii) is not a private foundation,

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

1           “(C) which prevents the co-mingling of  
2 qualified contributions with other amounts by  
3 maintaining one or more separate accounts ex-  
4 clusively for qualified contributions, and

5           “(D) which either—

6               “(i) meets the requirements of sub-  
7 section (d), or

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

16           “(d) REQUIREMENTS FOR SCHOLARSHIP GRANTING  
17 ORGANIZATIONS.—

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

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

23               “(B) such organization does not provide  
24 scholarships for any expenses other than quali-

1           fied elementary or secondary education ex-  
2           penses,

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

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

7                   “(ii) after application of clause (i),  
8                   any such students who have a sibling who  
9                   was awarded a scholarship from such orga-  
10                  nization,

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

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

21           “(F) such organization—

22                   “(i) obtains from an independent cer-  
23                   tified public accountant annual financial  
24                   and compliance audits, and

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

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

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

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

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

19                  “(C) Notarized income verification letter  
20                  from employers.

21                  “(D) Unemployment or workers compensa-  
22                  tion statements.

23                  “(E) Budget letters regarding public as-  
24                  sistance payments and Supplemental Nutrition



1 Assistance Program (SNAP) payments includ-  
2 ing a list of household members.

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

10 “(4) PROHIBITION ON SELF-DEALING.—

11 “(A) IN GENERAL.—A scholarship grant-  
12 ing organization may not award a scholarship  
13 to any disqualified person.

14 “(B) DISQUALIFIED PERSON.—For pur-  
15 poses of this paragraph, a disqualified person  
16 shall be determined pursuant to rules similar to  
17 the rules of section 4946.

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

22 “(f) CARRYFORWARD OF UNUSED CREDIT.—

23 “(1) IN GENERAL.—If the credit allowable  
24 under subsection (a) for any taxable year exceeds  
25 the limitation imposed by section 26(a) for such tax-

1     able year reduced by the sum of the credits allowable  
2     under this subpart (other than this section, section  
3     23, and section 25D), such excess shall be carried to  
4     the succeeding taxable year and added to the credit  
5     allowable under subsection (a) for such taxable year.

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

12           “(g) VOLUME CAP.—

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

23           “(2) FIRST-COME, FIRST-SERVE.—For purposes  
24    of applying the volume cap under this section, such  
25    volume cap for any calendar year shall be allocated

1 by the Secretary on a first-come, first-serve basis, as  
2 determined based on the time (during such calendar  
3 year) at which the taxpayer made the qualified con-  
4 tribution with respect to which the allocation is  
5 made. The Secretary shall not make any allocation  
6 of volume cap for any calendar year after December  
7 31 of such calendar year.

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

14 “(4) ANNUAL INCREASES.—

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

21 “(B) HIGH USE CALENDAR YEAR.—For  
22 purposes of this subsection, the term ‘high use  
23 calendar year’ means any calendar year for  
24 which 90 percent or more of the volume cap in

1 effect for such calendar year under subsection  
2 (a) is allocated to taxpayers.

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

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

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

15 (2) CONFORMING AMENDMENTS.—

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

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

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

23 (b) FAILURE OF SCHOLARSHIP GRANTING ORGANI-  
24 ZATIONS TO MAKE DISTRIBUTIONS.—



1           “(A) IN GENERAL.—The required distribu-  
2           tion amount with respect to a taxable year is  
3           the amount equal to 100 percent of the total re-  
4           ceipts of the scholarship granting organization  
5           for such taxable year—

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

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

14           “(B) SAFE HARBOR FOR REASONABLE AD-  
15           MINISTRATIVE EXPENSES.—For purposes of  
16           subparagraph (A)(i), if the percentage of total  
17           receipts of a scholarship granting organization  
18           for a taxable year which are used for adminis-  
19           trative purposes is equal to or less than 10 per-  
20           cent, such expenses shall be deemed to be rea-  
21           sonable for purposes of such subparagraph.

22           “(C) CARRYOVER.—With respect to the  
23           amount of the total receipts of a scholarship  
24           granting organization with respect to any tax-  
25           able year, an amount not greater than 15 per-

1 cent of such amount may, at the election of  
2 such organization, be carried to the succeeding  
3 taxable year.

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

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

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

“SUBCHAPTER I. SCHOLARSHIP GRANTING ORGANIZATIONS”.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to taxable years ending after De-  
19 cember 31, 2024.

1 **SEC. 3. EXEMPTION FROM GROSS INCOME FOR SCHOLAR-**  
2 **SHIPS FOR QUALIFIED ELEMENTARY OR SEC-**  
3 **ONDARY EDUCATION EXPENSES OF ELIGIBLE**  
4 **STUDENTS.**

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

8 **“SEC. 139J. SCHOLARSHIPS FOR QUALIFIED ELEMENTARY**  
9 **OR SECONDARY EDUCATION EXPENSES OF**  
10 **ELIGIBLE STUDENTS.**

11 “(a) IN GENERAL.—In the case of an individual,  
12 gross income shall not include any amounts provided to  
13 any dependent of such individual pursuant to a scholar-  
14 ship for qualified elementary or secondary education ex-  
15 penses of an eligible student which is provided by a schol-  
16 arship granting organization.

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

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



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

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

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

5           (a) PROHIBITION OF CONTROL OVER SCHOLARSHIP  
6 ORGANIZATIONS.—

7                   (1) IN GENERAL.—

8                           (A) TREATMENT.—A scholarship granting  
9 organization shall not, by virtue of participation  
10 under any provision of this Act or any amend-  
11 ment made by this Act, be regarded as acting  
12 on behalf of any governmental entity.

13                           (B) NO GOVERNMENTAL CONTROL.—Noth-  
14 ing in this Act, or any amendment made by this  
15 Act, shall be construed to permit, allow, encour-  
16 age, or authorize any Federal, State, or local  
17 government entity, or officer or employee there-  
18 of, to mandate, direct, or control any aspect of  
19 any scholarship granting organization.

20                           (C) MAXIMUM FREEDOM.—To the extent  
21 permissible by law, this Act, and any amend-  
22 ment made by this Act, shall be construed to  
23 allow scholarship granting organizations max-

1           imum freedom to provide for the needs of the  
2           participants without governmental control.

3           (2) PROHIBITION OF CONTROL OVER NON-PUB-  
4           LIC SCHOOLS.—

5                   (A) NO GOVERNMENTAL CONTROL.—Noth-  
6           ing in this Act, or any amendment made by this  
7           Act, shall be construed to permit, allow, encour-  
8           age, or authorize any Federal, State, or local  
9           government entity, or officer or employee there-  
10          of, to mandate, direct, or control any aspect of  
11          any private or religious elementary or secondary  
12          education institution.

13                   (B) NO EXCLUSION OF PRIVATE OR RELI-  
14          GIOUS SCHOOLS.—No Federal, State, or local  
15          government entity, or officer or employee there-  
16          of, shall impose or permit the imposition of any  
17          conditions or requirements that would exclude  
18          or operate to exclude educational expenses at  
19          private or religious elementary and secondary  
20          education institutions from being considered  
21          qualified elementary or secondary education ex-  
22          penses.

23                   (C) NO EXCLUSION OF QUALIFIED EX-  
24          PENSES DUE TO INSTITUTION'S RELIGIOUS  
25          CHARACTER OR AFFILIATION.—No Federal,

1 State, or local government entity, or officer or  
2 employee thereof, shall exclude, discriminate  
3 against, or otherwise disadvantage any elemen-  
4 tary or secondary education institution with re-  
5 spect to qualified elementary or secondary edu-  
6 cation expenses at that institution based in  
7 whole or in part on the institution's religious  
8 character or affiliation, including religiously  
9 based or mission-based policies or practices.

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

19 (4) PARENTAL RIGHT TO INTERVENE.—In any  
20 action filed in any State or Federal court which  
21 challenges the constitutionality (under the constitu-  
22 tion of such State or the Constitution of the United  
23 States) of any provision of this Act (or any amend-  
24 ment made by this Act), any parent of an eligible  
25 student who has received a scholarship from a schol-

1        arship granting organization shall have the right to  
2        intervene in support of the constitutionality of such  
3        provision or amendment. To avoid duplication of ef-  
4        forts and reduce the burdens placed on the parties  
5        to the action, the court in any such action may re-  
6        quire interveners taking similar positions to file joint  
7        papers or to be represented by a single attorney at  
8        oral argument, provided that the court does not re-  
9        quire such interveners to join any brief filed on be-  
10       half of any State which is a defendant in such ac-  
11       tion.

12       (b) DEFINITIONS.—For purposes of this subsection,  
13       the terms “eligible student”, “scholarship granting organi-  
14       zation”, and “qualified elementary or secondary education  
15       expense” shall have the same meanings given such terms  
16       under section 25F(c) of the Internal Revenue Code of  
17       1986 (as added by section 2(a) of this Act).

○