

119TH CONGRESS
1ST SESSION

S. _____

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 SENATE OF THE UNITED STATES

Mr. CRUZ introduced the following bill; which was read twice and 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 “Universal School
5 Choice Act”.

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

8 (a) CREDIT FOR INDIVIDUALS.—

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

5 **“SEC. 25F. QUALIFIED ELEMENTARY AND SECONDARY EDU-**
6 **CATION SCHOLARSHIPS.**

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

14 “(b) LIMITATIONS.—

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

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

20 “(B) \$5,000.

21 “(2) APPLICATION OF VOLUME CAP.—No credit
22 shall be allowed under subsection (a) to the taxpayer
23 with respect to the amount of any qualified contribu-
24 tion made during a taxable year which would result

1 in the aggregate amount of credits claimed under
2 this section for such taxable year exceeding—

3 “(A) with respect to qualified contributions
4 for which the taxpayer is required to designate
5 a distribution State pursuant to paragraph (4)
6 of section 3(a) of the Universal School Choice
7 Act, the volume cap allocated to such State pur-
8 suant to paragraph (2) of such section, or

9 “(B) with respect to qualified contributions
10 which are not described in subparagraph (A),
11 the volume cap made available to taxpayers
12 pursuant to paragraph (3)(B) of such section.

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

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

20 “(1) ELIGIBLE STUDENT.—The term ‘eligible
21 student’ means an individual who is eligible to enroll
22 in a public elementary or secondary school.

23 “(2) QUALIFIED CONTRIBUTION.—The term
24 ‘qualified contribution’ means a charitable contribu-
25 tion (as defined by section 170(c)) to a scholarship

1 granting organization in the form of cash or market-
2 able securities.

3 “(3) QUALIFIED ELEMENTARY OR SECONDARY
4 EDUCATION EXPENSE.—

5 “(A) IN GENERAL.—The term ‘qualified el-
6 ementary or secondary education expense’
7 means the following expenses in connection with
8 enrollment or attendance at, or for students en-
9 rolled at or attending, a public or private ele-
10 mentary or secondary school (including a reli-
11 gious elementary or secondary school):

12 “(i) Tuition and required fees.

13 “(ii) Curricula and curricular mate-
14 rials.

15 “(iii) Books or other instructional ma-
16 terials.

17 “(iv) Online educational materials, as
18 well as software, courses, and computer
19 hardware or other technological devices re-
20 quired to access such materials and which
21 is primarily used for educational purposes

22 .

23 “(v) Tuition for tutoring or edu-
24 cational classes outside of the home or on-
25 line, including at a tutoring facility, but

1 only if the tutor or instructor is not related
2 to the student and—

3 “**(I)** is licensed as a teacher in
4 any State,

5 “**(II)** has taught at—

6 “**(aa)** a public or private ele-
7 mentary or secondary school, or

8 “**(bb)** an institution of high-
9 er education (as defined in sec-
10 tion 101(a) of the Higher Edu-
11 cation Act of 1965 (20 U.S.C.
12 1001(a))), or

13 “**(III)** is a subject matter expert
14 in the relevant subject.

15 “**(vi)** Fees for a nationally standard-
16 ized norm-referenced achievement test, an
17 advanced placement examination, or any
18 examinations related to admission to an in-
19 stitution of higher education.

20 “**(vii)** Fees for dual enrollment in an
21 institution of higher education.

22 “**(viii)** Educational therapies for stu-
23 dents with disabilities provided by a li-
24 censed or accredited practitioner or pro-

1 vider, including occupational, behavioral,
2 physical, and speech-language therapies.

3 “(ix) Transportation costs incurred
4 for students to participate in any activity
5 for which expenses are authorized under
6 this paragraph.

7 “(B) HOME SCHOOLING.—The term ‘quali-
8 fied elementary or secondary education expense’
9 shall include expenses for the purposes de-
10 scribed in clauses (i) through (ix) of subpara-
11 graph (A) in connection with a home school
12 (whether treated as a home school or a private
13 school for purposes of applicable State law).

14 “(C) PROHIBITION ON PAYMENTS TO FAM-
15 ILY MEMBERS.—The term ‘qualified elementary
16 or secondary education expense’ shall not in-
17 clude any expenses related to services provided
18 to the student which are provided by an indi-
19 vidual who bears a relationship to the student
20 described in section 152(d)(2).

21 “(4) SCHOLARSHIP GRANTING ORGANIZA-
22 TION.—

23 “(A) IN GENERAL.—The term ‘scholarship
24 granting organization’ means any organiza-
25 tion—

1 “(i) which—

2 “(I) is described in section
3 501(c)(3) and exempt from tax under
4 section 501(a), and

5 “(II) is not a private foundation,

6 “(ii) substantially all of the activities
7 of which are providing scholarships for
8 qualified elementary or secondary edu-
9 cation expenses of eligible students,

10 “(iii) which prevents the co-mingling
11 of qualified contributions with other
12 amounts by maintaining 1 or more sepa-
13 rate accounts exclusively for qualified con-
14 tributions, and

15 “(iv) which meets the requirements of
16 subsection (d).

17 “(B) SCHOLARSHIPS FOR NON-ELIGIBLE
18 STUDENTS.—For purposes of determining
19 whether an organization satisfies the require-
20 ment described in subparagraph (A)(ii), such
21 organization may include activities of which are
22 providing scholarships for education expenses of
23 children who are not described in paragraph
24 (1).

1 “(5) STATE.—The term ‘State’ means each of
2 the 50 States, the District of Columbia, the Com-
3 monwealth of Puerto Rico, American Samoa, Guam,
4 the Commonwealth of the Northern Mariana Is-
5 lands, the United States Virgin Islands, and the De-
6 partment of the Interior (acting through the Bureau
7 of Indian Education).

8 “(d) REQUIREMENTS FOR SCHOLARSHIP GRANTING
9 ORGANIZATIONS.—

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

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

15 “(B) with respect to any amount contrib-
16 uted to such organization for which a credit is
17 allowed under this section, such organization
18 does not provide scholarships for any expenses
19 other than qualified elementary or secondary
20 education expenses,

21 “(C) with respect to any amount contrib-
22 uted to such organization for which a credit is
23 allowed under this section, such organization
24 provides a scholarship to eligible students with
25 a priority for—

1 “(i) students awarded a scholarship
2 the previous school year,

3 “(ii) after application of clause (i),
4 any such students who have a sibling who
5 was awarded a scholarship from such orga-
6 nization, and

7 “(iii) after application of clauses (i)
8 and (ii), any such students from house-
9 holds with annual incomes below 500 per-
10 cent of the poverty line in the State,

11 “(D) such organization does not earmark
12 or set aside contributions for scholarships on
13 behalf of any particular student at the direction
14 of any individual or corporation that has made
15 a qualified contribution to such organization,

16 “(E) such organization—

17 “(i) obtains from an independent cer-
18 tified public accountant annual financial
19 and compliance audits, and

20 “(ii) certifies to the Secretary (at such
21 time, and in such form and manner, as the
22 Secretary may prescribe) that the audit de-
23 scribed in clause (i) has been completed,
24 and

1 “(F) no officer or board member of such
2 organization has been convicted of a felony.

3 “(2) INCOME VERIFICATION.—

4 “(A) IN GENERAL.—For purposes of para-
5 graph (1)(C)(iii), in the case where providing
6 such priority may be applicable with respect to
7 a student, the organization shall take appro-
8 priate steps to verify the annual household in-
9 come to the student.

10 “(B) SAFE HARBOR.—For purposes of
11 subparagraph (A), review of all of the following
12 (as applicable) shall be treated as satisfying the
13 requirement to take appropriate steps to verify
14 annual household income:

15 “(i) Federal and State income tax re-
16 turns or tax return transcripts with appli-
17 cable schedules for the taxable year prior
18 to application.

19 “(ii) Income reporting statements for
20 tax purposes or wage and income tran-
21 scripts from the Internal Revenue Service.

22 “(iii) Notarized income verification
23 letter from employers.

24 “(iv) Unemployment or workers com-
25 pensation statements.

1 “(v) Budget letters regarding public
2 assistance payments and Supplemental
3 Nutrition Assistance Program (SNAP)
4 payments including a list of household
5 members.

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

13 “(4) PROHIBITION ON SELF-DEALING.—

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

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

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

25 “(f) CARRYFORWARD OF UNUSED CREDIT.—

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

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

15 “(g) ALTERNATIVE MINIMUM TAX.—For purposes of
16 calculating the alternative minimum tax under section 55,
17 a taxpayer may use any credit received for a qualified con-
18 tribution under this section.”.

19 (2) CONFORMING AMENDMENTS.—

20 (A) Section 25(e)(1)(C) of such Code is
21 amended by striking “and 25D” and inserting
22 “25D, and 25F”.

23 (B) The table of sections for subpart A of
24 part IV of subchapter A of chapter 1 of such

1 Code is amended by inserting after the item re-
2 relating to section 25E the following new item:

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

3 (b) CREDIT FOR CORPORATIONS.—

4 (1) IN GENERAL.—Subpart D of part IV of
5 subchapter A of chapter 1 of the Internal Revenue
6 Code of 1986 is amended by adding after section
7 45AA the following:

8 **“SEC. 45BB. CONTRIBUTIONS TO SCHOLARSHIP GRANTING**
9 **ORGANIZATIONS.**

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

15 “(b) AMOUNT OF CREDIT.—The credit allowed under
16 subsection (a) for any taxable year shall not exceed 5 per-
17 cent of the taxable income (as defined in section
18 170(b)(2)(D)) of the corporation for such taxable year.

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

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

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

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

11 “(b) REQUIREMENT.—

12 “(1) IN GENERAL.—The requirement described
13 in this subsection is that the amount of receipts of
14 the scholarship granting organization for the taxable
15 year which are distributed before the distribution
16 deadline with respect to such receipts shall not be
17 less than the required distribution amount with re-
18 spect to such taxable year.

19 “(2) DISTRIBUTION DEADLINE.—The distribu-
20 tion deadline with respect to receipts for a taxable
21 year is the first day of the third taxable year fol-
22 lowing the taxable year in which such receipts are
23 received by the scholarship granting organization.

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

25 “(1) REQUIRED DISTRIBUTION AMOUNT.—

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, as reduced by the sum of
6 such receipts that are retained for reasonable
7 administrative expenses for the taxable year.

8 “(B) SAFE HARBOR FOR REASONABLE AD-
9 MINISTRATIVE EXPENSES.—For purposes of
10 subparagraph (A), if the percentage of total re-
11 ceipts of a scholarship granting organization for
12 a taxable year which are used for administrative
13 purposes is equal to or less than 10 percent,
14 such expenses shall be deemed to be reasonable
15 for purposes of such subparagraph.

16 “(2) DISTRIBUTIONS.—The term ‘distribution’
17 includes amounts which are formally committed but
18 not distributed. A formal commitment described in
19 the preceding sentence may include contributions set
20 aside for eligible students for more than 1 year.”.

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

 “SUBCHAPTER I. SCHOLARSHIP GRANTING ORGANIZATIONS”.

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

4 **SEC. 3. VOLUME CAP.**

5 (a) IN GENERAL.—

6 (1) NATIONAL CAP.—For purposes of sections
7 25F(b)(2) and 45BB(e) of the Internal Revenue
8 Code of 1986 (as added by this Act), the volume cap
9 applicable under this section shall be
10 \$10,000,000,000 for calendar year 2026 and each
11 subsequent year thereafter.

12 (2) ALLOCATION OF CAP.—

13 (A) IN GENERAL.—For each calendar year,
14 the Secretary shall, from the amount allotted
15 under paragraph (1)—

16 (i) subject to subparagraph (C), first
17 reserve, for each State, an amount equal to
18 the sum of the qualifying contributions
19 designated under paragraph (4) with re-
20 spect to such State in the preceding year;
21 and

22 (ii) next, allocate the remaining
23 amount among the States by allocating to
24 each State the sum of—

1 (I) an amount that bears the
2 same relationship to 20 percent of
3 such remaining amount as the num-
4 ber of individuals aged 5 through 17
5 in the State, as determined by the
6 Secretary (in coordination with the
7 Secretary of Education) on the basis
8 of the most recent satisfactory data,
9 bears to the number of those individ-
10 uals in all such States, as so deter-
11 mined; and

12 (II) an amount that bears the
13 same relationship to 80 percent of
14 such remaining amount as the num-
15 ber of individuals aged 5 through 17
16 from families with incomes below the
17 poverty line in the State, as deter-
18 mined by the Secretary (in coordina-
19 tion with the Secretary of Education),
20 on the basis of the most recent satis-
21 factory data, bears to the number of
22 those individuals in all such States, as
23 so determined.

24 (B) MINIMUM ALLOCATION.—Notwith-
25 standing subparagraph (A), no State receiving

1 an allotment under this section may receive less
2 than one-half of one percent of the amount al-
3 lotted for a calendar year.

4 (C) INITIAL YEAR.—For purposes of the
5 first calendar year with respect to which this
6 section applies, the amount allocated to each
7 State under this paragraph shall be determined
8 without respect to subparagraph (A)(i).

9 (3) ALLOCATION AND ADJUSTMENTS.—

10 (A) INITIAL ALLOCATION TO STATES.—No
11 later than November 1 of the year preceding a
12 year for which there is a volume cap on credits
13 under paragraph (1) (hereafter in this section,
14 the “applicable year”), or as early as prac-
15 ticable with respect to the first year, the Sec-
16 retary shall announce the State allocations
17 under paragraph (2) for the applicable year.

18 (B) REALLOCATION OF UNCLAIMED CRED-
19 ITS.—On or after July 31 of any applicable
20 year, the Secretary shall—

21 (i) make available any amounts of the
22 volume cap which were allocated to States
23 under paragraph (2) and which have not
24 been claimed; and

1 (ii) allocate such amounts on a first-
2 come, first-serve basis, as determined
3 based on the time (during such calendar
4 year) at which the taxpayer made the
5 qualified contribution with respect to which
6 the allocation is made.

7 (4) DESIGNATION BY TAXPAYER.—

8 (A) IN GENERAL.—For purposes of deter-
9 mining the amount of the volume cap allocated
10 to a State under paragraph (2) for any cal-
11 endar year which has been claimed by tax-
12 payers, the Secretary shall—

13 (i) as part of the system described in
14 subsection (c), require each taxpayer mak-
15 ing a qualified contribution to designate
16 the distribution State with respect to such
17 contribution; and

18 (ii) for each State which an allocation
19 has been made under paragraph (2), en-
20 sure that the total amount of qualified con-
21 tributions designated with respect to such
22 State pursuant to clause (i) during such
23 calendar year does not exceed the amount
24 of the volume cap allocated to a State for
25 such calendar year.

1 (B) BINDING ON SCHOLARSHIP GRANTING
2 ORGANIZATION.—The designation by the tax-
3 payer of the distribution State pursuant to sub-
4 paragraph (A)(i) shall be binding on the schol-
5 arship granting organization for purposes of
6 any distribution of the qualified contribution
7 made by such taxpayer.

8 (C) DISTRIBUTION STATE.—For purposes
9 of this section, the term “distribution State”
10 means the State for which the scholarship
11 granting organization shall, pursuant to the re-
12 quirements under section 4969 of the Internal
13 Revenue Code of 1986, be required to make dis-
14 tributions with respect to eligible students re-
15 siding in such State.

16 (D) EXCEPTION FOR ADMINISTRATIVE EX-
17 PENSES.—The requirements applicable to a
18 scholarship granting organization under sub-
19 paragraphs (B) and (C) shall not apply to such
20 portion of the qualified contributions received
21 by such organization that are used for adminis-
22 trative purposes (as described in section
23 4969(c)(1)(B) of the Internal Revenue Code of
24 1986).

25 (b) ANNUAL INCREASES.—

1 (1) IN GENERAL.—In the case of the calendar
2 year after a high use calendar year, the dollar
3 amount otherwise in effect under subsection (a) for
4 such calendar year shall be equal to 105 percent of
5 the dollar amount in effect for such high use cal-
6 endar year.

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

13 (3) PREVENTION OF DECREASES IN ANNUAL
14 VOLUME CAP.—The volume cap in effect under sub-
15 section (a) for any calendar year shall not be less
16 than the volume cap in effect under such subsection
17 for the preceding calendar year.

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

22 (c) REAL-TIME INFORMATION.—For purposes of this
23 section, the Secretary shall develop a system to track the
24 amount of qualified contributions made during the cal-
25 endar year for which a credit may be claimed under sec-

1 tion 25F or 45BB of the Internal Revenue Code of 1986,
2 with such information to be updated in real time.

3 (d) DEFINITION.—For purposes of this section, the
4 term “Secretary” means the Secretary of the Treasury (or
5 the Secretary’s delegate)

6 **SEC. 4. EXEMPTION FROM GROSS INCOME FOR SCHOLAR-**
7 **SHIPS FOR QUALIFIED ELEMENTARY OR SEC-**
8 **ONDARY EDUCATION EXPENSES OF ELIGIBLE**
9 **STUDENTS.**

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

13 **“SEC. 139J. SCHOLARSHIPS FOR QUALIFIED ELEMENTARY**
14 **OR SECONDARY EDUCATION EXPENSES OF**
15 **ELIGIBLE STUDENTS.**

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

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

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

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

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

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

10 (a) PROHIBITION OF CONTROL OVER SCHOLARSHIP
11 ORGANIZATIONS.—

12 (1) IN GENERAL.—

13 (A) TREATMENT.—A scholarship granting
14 organization shall not, by virtue of participation
15 under any provision of this Act or any amend-
16 ment made by this Act, be regarded as acting
17 on behalf of any governmental entity.

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

1 (C) MAXIMUM FREEDOM.—To the extent
2 permissible by law, this Act, and any amend-
3 ment made by this Act, shall be construed to
4 allow scholarship granting organizations max-
5 imum freedom to provide for the needs of the
6 participants without governmental control.

7 (2) PROHIBITION OF CONTROL OVER NON-PUB-
8 LIC SCHOOLS.—

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

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

1 qualified elementary or secondary education ex-
2 penses.

3 (C) NO EXCLUSION OF QUALIFIED EX-
4 PENSES DUE TO INSTITUTION'S RELIGIOUS
5 CHARACTER OR AFFILIATION.—No Federal,
6 State, or local government entity, or officer or
7 employee thereof, shall exclude, discriminate
8 against, or otherwise disadvantage any elemen-
9 tary or secondary education institution with re-
10 spect to qualified elementary or secondary edu-
11 cation expenses at that institution based in
12 whole or in part on the institution's religious
13 character or affiliation, including religiously
14 based or mission-based policies or practices.

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

24 (4) PARENTAL RIGHT TO INTERVENE.—In any
25 action filed in any State or Federal court which

1 challenges the constitutionality (under the constitu-
2 tion of such State or the Constitution of the United
3 States) of any provision of this Act (or any amend-
4 ment made by this Act), any parent of an eligible
5 student who has received a scholarship from a schol-
6 arship granting organization shall have the right to
7 intervene in support of the constitutionality of such
8 provision or amendment. To avoid duplication of ef-
9 forts and reduce the burdens placed on the parties
10 to the action, the court in any such action may re-
11 quire interveners taking similar positions to file joint
12 papers or to be represented by a single attorney at
13 oral argument, provided that the court does not re-
14 quire such interveners to join any brief filed on be-
15 half of any State which is a defendant in such ac-
16 tion.

17 (b) DEFINITIONS.—For purposes of this section, the
18 terms “eligible student”, “scholarship granting organiza-
19 tion”, and “qualified elementary or secondary education
20 expense” shall have the same meanings given such terms
21 under section 25F(c) of the Internal Revenue Code of
22 1986 (as added by section 2(a) of this Act).