116TH CONGRESS
2D Session

S.

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

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

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”.

SEC. 2. GRANTS TO PARENTS AND GUARDIANS FOR STUDENT EDUCATION EXPENSES.

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

(b) CONTENTS OF PROGRAM.—The program carried out under subsection (a) shall have the following requirements:

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

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

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

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

(B) establish the parent or guardian’s identity, establish the parent or guardian’s citizenship or lawful resident status;

(C) establish that parent or guardian is the legal parent or guardian of the child and the child’s identity; and

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

(5) The Secretary shall only make payments to legal parents and guardians that have applied through the web portal and provided such information as required by the Secretary, in consultation with the Secretary of Education. The web portal
shall be established within 60 days of the date of enactment of this Act.

(6) The Secretary shall require parents or guardians who have received a payment from the program to maintain records of how such individuals spent the payment. The Secretary shall develop procedures to audit such records, mitigate fraud, waste, and abuse within the program, and recoup program funds and payments from individuals who have committed fraud, waste, or abuse.

(c) Definitions.—In this section:

(1) Educational expenses.—The term “educational expenses”—

(A) means—

(i) tuition for elementary or secondary education;

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

(iii) books or other instructional materials for elementary or secondary education;

(iv) online elementary or secondary education educational materials and expenses incurred to access these online educational 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,
physical, and speech-language therapies; and

(B) includes expenses for the purposes described in clauses (i) through (viii) of subparagraph (A) in connection with a homeschool (whether treated as a homeschool or a private school for purposes of applicable State law).

(2) SECRETARY.—The term “Secretary” means the Secretary of the Treasury or the Secretary’s delegate.

(d) AUTHORIZATION AND APPROPRIATION.—

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

(2) EMERGENCY DESIGNATION.—

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

(B) DESIGNATION IN SENATE.—In the Senate, this section is designated as an emer-
emergency 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.—
(A) Program Authorized.—From any amounts appropriated for section 18003 of division B of the CARES Act (Public Law 116–136) on or after the date of enactment of this Act, the Secretary shall, notwithstanding any other provision of title XVIII of division B of the CARES Act, use 10 percent of such amounts to carry out paragraph (3) and award emergency education freedom grants to States with approved applications, in order to enable the States to award subgrants to eligible scholarship-granting organizations under paragraph (4).

(B) Timing.—The Secretary shall make the allotments required under this paragraph by not later than 30 days after the date of enactment of this Act.

(3) Reservation and Allotments.—

(A) In General.—From the amounts made available under paragraph (2)(A), the Secretary shall—

(i) reserve—

(I) one-half of 1 percent for allotments for the United States Virgin Islands, Guam, American Samoa, and
the Commonwealth of the Northern Mariana Islands, to be distributed among those outlying areas on the basis of their relative need, as determined by the Secretary, in accordance with the purpose of this subsection; and

(II) one-half of 1 percent of such amounts for the Secretary of the Interior, acting through the Bureau of Indian Education, to be used to provide subgrants described in paragraph (4) to eligible scholarship-granting organizations that serve students attending elementary schools or secondary schools operated or funded by the Bureau of Indian Education; and

(ii) subject to subparagraph (B), allot each State that submits an approved application under this subsection the sum of—

(I) the amount that bears the same relation to 20 percent of the emergency education freedom grant funds as the number of individuals aged 5 through 17 in the State, as de-
termined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals, as so determined, in all such States that submitted approved applications; and

(II) an amount that bears the same relationship to 80 percent of the emergency education freedom grant funds as the number of individuals aged 5 through 17 from families with incomes below the poverty line in the State, as determined by the Secretary on the basis of the most recent satisfactory data, bears to the number of those individuals, as so determined, in all such States that submitted approved applications.

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

(4) Subgrants to Eligible Scholarship-
(A) **IN GENERAL.**—A State that receives an allotment under this subsection shall use the allotment to award subgrants, on a basis determined appropriate by the State, to eligible scholarship-granting organizations in the State.

(B) **INITIAL TIMING.**—

(i) **STATES WITH EXISTING TAX CREDIT SCHOLARSHIP PROGRAM.**—By not later than 30 days after receiving an allotment under paragraph (3)(A)(ii), a State with an existing, as of the date of application for an allotment under this subsection, tax credit scholarship program shall use not less than 50 percent of the allotment to award subgrants to eligible scholarship-granting organizations in the State.

(ii) **STATES WITHOUT TAX CREDIT SCHOLARSHIP PROGRAMS.**—By not later than 60 days after receiving an allotment under paragraph (3)(A)(ii), a State without a tax credit scholarship program shall use not less than 50 percent of the allotment to award subgrants to eligible scholarship-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),
shall apply to this subsection in the same manner as such rules apply to section 25E of such Code, as so added.

(b) Tax Credits for Contributions to Eligible Scholarship-Granting Organizations.—

(1) Credit for Individuals.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding after section 25D the following new section:

"SEC. 25E. CONTRIBUTIONS TO ELIGIBLE SCHOLARSHIP-GRANTING ORGANIZATIONS.

"(a) Allowance of Credit.—Subject to section 3(c)(3) of the Coronavirus Emergency Education Grants Act, in the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of any qualified contributions made by the taxpayer during the taxable year.

"(b) Amount of Credit.—The credit allowed under subsection (a) for any taxable year shall not exceed 10 percent of the taxpayer’s adjusted gross income for the taxable year.

"(c) Definitions.—For purposes of this section—
“(1) Eligible Scholarship-Granting Organization.—The term ‘eligible scholarship-granting organization’ means—

“(A) an organization that—

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

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

“(I) reside in the State in which the eligible scholarship-granting organization is recognized, or

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

“(iii) a State identifies to the Secretary as an eligible scholarship-granting organization under section 3(c)(3)(E)(ii) of the Coronavirus Emergency Education Grants Act,

“(iv) allocates at least 90 percent of qualified contributions to qualifying scholarships on an annual basis, and
“(v) provides qualifying scholarships to—

“(I) more than 1 eligible student,
“(II) more than 1 eligible family,
and
“(III) different eligible students attending more than 1 education provider, or

“(B) an organization that—

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

“(ii) pursuant to State law, was able, as of January 1, 2021, to receive contributions that are eligible for a State tax credit if such contributions are used by the organization to provide scholarships to individual elementary and secondary students, including scholarships for attending private schools.

“(2) QUALIFIED CONTRIBUTION.—The term ‘qualified contribution’ means a contribution of cash to any eligible scholarship-granting organization.
“(3) QUALIFIED EXPENSE.—The term ‘qualified expense’ means any educational expense that is—

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

“(B) for the secondary education component of an individual elementary or secondary student’s career and technical education, as defined by section 3(5) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302(5)).

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

“(5) STATE.—The term ‘State’ means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the outlying areas (as defined in section 1121(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6331(c)), and the Department of the Interior (acting through the Bureau of Indian Education).

“(d) RULES OF CONSTRUCTION.—
“(1) IN GENERAL.—A qualifying scholarship awarded to a student from the proceeds of a qualified contribution under this section shall not be considered assistance to the school or other educational provider that enrolls, or provides educational services to, the student or the student’s parents.

“(2) EXCLUSION FROM INCOME.—Gross income shall not include any amount received by an individual as a qualifying scholarship and such amount shall not be taken into account as income or resources for purposes of determining the eligibility of such individual or any other individual for benefits or assistance, or the amount or extent of such benefits or assistance, under any Federal program or under any State or local program financed in whole or in part with Federal funds.

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

“(A)(i) Nothing in this section shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home education provider, whether or not a home education provider is treated as a private school or home school under State law.
“(ii) This section shall not be construed to exclude private, religious, or home education providers from participation in programs or services under this section.

“(B) Nothing in this section shall be construed to permit, allow, encourage, or authorize an entity submitting a list of eligible scholarship-granting organizations on behalf of a State pursuant to section 3(c)(3)(E) of the Coronavirus Emergency Education Grants Act to mandate, direct, or control any aspect of a private or home education provider, regardless of whether or not a home education provider is treated as a private school under State law.

“(C) No participating State or entity acting on behalf of a State pursuant to section 3(c)(3)(E) of the Coronavirus Emergency Education Grants Act shall exclude, discriminate against, or otherwise disadvantage any education provider with respect to programs or services under this section based in whole or in part on the provider’s religious character or affiliation, including religiously-based or mission-based policies or practices.
“(4) PARENTAL RIGHTS TO USE SCHOLARSHIPS.—No participating State or entity acting on behalf of a State pursuant to section 3(c)(3)(E) of the Coronavirus Emergency Education Grants Act shall disfavor or discourage the use of qualifying scholarships for the purchase of elementary and secondary education services, including those services provided by private or nonprofit entities, such as faith-based providers.

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

“(e) DENIAL OF DOUBLE BENEFIT.—The Secretary shall prescribe such regulations or other guidance to ensure that the sum of the tax benefits provided by Federal, State, or local law for a qualified contribution receiving a Federal tax credit in any taxable year does not exceed the sum of the qualified contributions made by the taxpayer for the taxable year.

“(f) CARRYFORWARD OF CREDIT.—If a tax credit allowed under this section is not fully used within the applicable taxable year because of insufficient tax liability on the part of the taxpayer, the unused amount may be carried forward for a period not to exceed 5 years.
“(g) Election.—This section shall apply to a taxpayer for a taxable year only if the taxpayer elects to have this section apply for such taxable year.

“(h) Alternative Minimum Tax.—For purposes of calculating the alternative minimum tax under section 55, a taxpayer may use any credit received for a qualified contribution under this section.”.

(2) Clerical Amendment.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25D the following new item:

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

(3) Credit for Corporations.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 45U. CONTRIBUTIONS TO ELIGIBLE SCHOLARSHIP-GRA NTING ORGANIZATIONS.

“(a) Allowance of Credit.—Subject to section 3(e)(3) of the Coronavirus Emergency Education Grants Act, for purposes of section 38, in the case of a domestic corporation, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of any qualified contributions
(as defined in section 25E(c)(2)) made by such corporation taxpayer during the taxable year.

“(b) Amount of Credit.—The credit allowed under subsection (a) for any taxable year shall not exceed 5 percent of the taxable income (as defined in section 170(b)(2)(D)) of the domestic corporation for such taxable year.

“(c) Additional Provisions.—For purposes of this section, any qualified contributions made by a domestic corporation shall be subject to the provisions of section 25E (including subsection (d) of such section), to the extent applicable.

“(d) Election.—This section shall apply to a taxpayer for a taxable year only if the taxpayer elects to have this section apply for such taxable year.”.

(4) Credit Part of General Business Credit.—Section 38(b) is amended—

(A) by striking “plus” at the end of paragraph (32);

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

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

“(34) the credit for qualified contributions determined under section 45U(a).”.
(5) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

"Sec. 45U. Contributions to eligible scholarship-granting organizations."

(6) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2020.

(c) EDUCATION FREEDOM SCHOLARSHIPS WEB PORTAL AND ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of the Treasury shall, in coordination with the Secretary of Education, establish, host, and maintain a web portal that—

(A) lists all eligible scholarship-granting organizations;

(B) enables a taxpayer to make a qualifying contribution to 1 or more eligible scholarship-granting organizations and to immediately obtain both a pre-approval of a tax credit for that contribution and a receipt for tax filings;

(C) provides information about the tax benefits under sections 25E and 45U of the Internal Revenue Code of 1986; and

(D) enables a State to submit and update information about its programs and its eligible
scholarship-granting organizations for informational purposes only, including information on—

(i) student eligibility;

(ii) allowable educational expenses;

(iii) the types of allowable education providers;

(iv) the percentage of funds an organization may use for program administration; and

(v) the percentage of total contributions the organization awards in a calendar year.

(2) Nonportal Contributions.—A taxpayer may opt to make a contribution directly to an eligible scholarship-granting organization, instead of through the web portal described in paragraph (1), provided that the taxpayer, or the eligible scholarship-granting organization on behalf of the taxpayer, applies for, and receives, pre-approval for a tax credit from the Secretary of the Treasury in coordination with the Secretary of Education.

(3) National and State Limitations on 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,
as determined by the Secretary of
Education on the basis of the
most recent satisfactory data,
bears to the number of those in-
dividuals in all such States, as so
determined; and

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

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

(iii) ALTERNATIVE ALLOCATION.—
(I) IN GENERAL.—Not later than the end of the fifth year of the program or 1 year after the end of the first fiscal year for which the total amount of credits claimed under section 25E and section 45U of the Internal Revenue Code of 1986 is $2,500,000,000 or more, whichever comes first, the Secretary of the Treasury, in consultation with the Secretary of Education, shall, by regulation, provide for an alternative allocation method that shall take effect beginning with the first fiscal year after such regulation takes effect.

(II) ALTERNATIVE ALLOCATION METHOD.—The alternative allocation method shall be expressed as a formula based on a combination of the following data for each State, as reported by the State to the Secretary of the Treasury:

(aa) The relative percentage of students in the State who receive an elementary or secondary
scholarship through a State pro-
gram that is financed through
State tax-credited donations or
appropriations and that permits
the elementary or secondary
scholarship to be used to attend
a private school.

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

(III) ALLOCATION FORMULA.—

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

(aa) for each State, allocate
an amount equal to the sum of
the qualifying contributions made
in the State in the previous year;
(bb) allocate \( \frac{2}{3} \) of the remaining amount (after application of item (aa)) of the national limitation for that year using the alternative allocation method under subclause (II); and

(cc) allocate \( \frac{1}{3} \) of the remaining amount (after application of item (aa) and (bb)) in accordance with clause (i)(II).

(IV) INELIGIBILITY.—For any fiscal year to which subclause (I) applies, a State that does not provide the Secretary of the Treasury with information described in subclause (II) is not eligible to receive an allocation through the alternative allocation method under such subclause.

(C) ALLOWABLE PARTNERSHIPS.—A State may choose to administer the allocation it receives under subparagraph (B) in partnership with 1 or more States, provided that the eligible scholarship-granting organizations in each partner State serve students who reside in all States in the partnership.
(D) Total Allocation.—A State’s allocation, for any fiscal year, is the sum of the amount determined for such State under clauses (i) and (ii) of subparagraph (B), except as provided in subparagraph (B)(iii).

(E) Allocation and Adjustments.—

(i) Initial Allocation to States.—Not later than November 1 of the year preceding a year for which there is a national limitation on credits under subparagraph (A) (referred to in this subsection as the “applicable year”), or as early as practicable with respect to the first year, the Secretary of the Treasury shall announce the State allocations under subparagraph (B) for the applicable year.

(ii) List of Eligible Scholarship-Granting Organizations.—

(I) In General.—Not later than January 1 of each applicable year, or as early as practicable with respect to the first year, each State shall provide the Secretary of the Treasury a list of eligible scholarship-granting organizations, 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
(B), the allocation of a State for which the State’s allocation has not been claimed.

(4) Definitions.—Any term used in this subsection which is also used in section 25E of the Internal Revenue Code of 1986 shall have the same meaning as when used in such section.