To amend the Internal Revenue Code of 1986 to allow a credit against tax for qualified elementary and secondary education tuition.

IN THE SENATE OF THE UNITED STATES

Mr. RUBIO 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 qualified elementary and secondary education tuition.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Educational Opportunities Act”.

SEC. 2. TAX CREDIT FOR CONTRIBUTIONS TO SCHOLARSHIP GRANTING ORGANIZATIONS.

(a) CREDIT FOR INDIVIDUALS.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code
of 1986 is amended by inserting after section 25D the following new section:

"SEC. 25E. QUALIFIED ELEMENTARY AND SECONDARY EDUCATION TUITION.

"(a) ALLOWANCE OF CREDIT.—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 amount of qualified contributions made by the taxpayer during the taxable year.

"(b) DOLLAR LIMITATION.—The amount allowed as a credit under subsection (a) with respect to any taxpayer shall not exceed—

"(1) $2,250, in the case of a married individual filing a separate return, and

"(2) $4,500, in any other case.

"(c) QUALIFIED CONTRIBUTIONS; OTHER DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED CONTRIBUTION.—The term 'qualified contribution' means a charitable contribution (as defined by section 170(e)) to an scholarship granting organization.

"(2) SCHOLARSHIP GRANTING ORGANIZATION.—The term 'scholarship granting organization' means any organization—
“(A) which is described in section 501(c)(3) and exempt from tax under section 501(a),

“(B) whose exclusive purpose is to provide scholarships for the qualified elementary and secondary education expenses of eligible students, and

“(C) which meets the requirements of subsection (d).

“(3) ELIGIBLE STUDENT.—The term ‘eligible student’ means an individual—

“(A) who is enrolled in an elementary or secondary school (within the meaning of section 530(b)(3)(B), after the application of paragraph (4)(B)), and

“(B) who is a member of a household with a total annual household income which does not exceed 250 percent of the Federal poverty guidelines (as determined by the Secretary of Health and Human Services).

“(4) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—The term ‘qualified elementary and secondary education expenses’ has the meaning given such term by section 530(b)(3), except that—
“(A) ‘child’ shall be substituted for ‘beneficiary’ and ‘a child’ shall be substituted for ‘the designated beneficiary of the trust’ in clauses (i) and (iii) of subparagraph (A) thereof, and

“(B) in applying such paragraph, the term ‘school’ shall only include schools which—

“(i) charge tuition for attendance,

“(ii) comply with all applicable State laws, including laws relating to unlawful discrimination, health and safety requirements, and criminal background checks of employees, and

“(iii) agree to provide annual reports as described in subsection (e) to a scholarship granting organization and to the parents or guardians of eligible students receiving a scholarship from the scholarship granting organization.

“(5) SCHOLARSHIP.—The term ‘scholarship’ does not include any payment to fulfill or fund any obligation or project of any school or school system to provide a free, appropriate public education.
“(d) Requirements for Scholarship Granting Organizations.—An organization meets the requirements of this section if—

“(1) such organization does not provide grants to eligible students for any expenses other than qualified elementary and secondary education expenses,

“(2) such organization provides grants to—

“(A) more than 1 student, and

“(B) different students attending more than 1 school,

“(3) such organization does not earmark or set aside contributions for scholarships on behalf of any particular student or to any specific school or group of schools,

“(4) such organization takes appropriate steps to verify the annual household income and family size of eligible students to which it provides grants,

“(5) such organization obtains annual audits from an independent certified public accountant and submits such audits to the Secretary,

“(6) no employee of such organization has violated any law relating to the audit described in paragraph (4), and

“(7) such organization—
“(A) requires any eligible student who receives a scholarship—

“(i) to participate in the evaluation conducted by the Institute of Education Science under section 2(d) of the Educational Opportunities Act, and

“(ii) to permit such organization to share assessment information and other data regarding the student with the Institute in accordance with subparagraph (B),

and

“(B) provides the reports described in subsection (e)(1)(C) and such other information as necessary to the Director of the Institute of Education Science for the purposes of identifying eligible students receiving a scholarship from such organization and conducting the evaluations and reports required under section 2(d) of the Educational Opportunities Act.

For purposes of paragraph (5), the term ‘independent certified public accountant’ means, with respect to an organization, a certified public accountant which is not a related person (within the meaning of section 465(b)(3)(C)) with respect to such organization or any employee of such organization.
“(e) Eligible School Reporting Requirement.—

“(1) In general.—The reports described in this subsection include—

“(A) a report to the parents on the student’s academic achievement, including a comparison with the aggregate academic achievement of other students in the same grade or level at the school who receive a scholarship from a scholarship granting organization, if available, and

“(B) a report, to each scholarship granting organization that provides scholarships to students at the school, that includes—

“(i) the test results, in the aggregate and disaggregated by race or ethnicity and grade level, of the students receiving such scholarships who are in grades 3 through 12 on a grade-appropriate nationally norm-referenced standardized test, or a grade-appropriate State-recognized assessment, and

“(ii) any additional data requested by the Director of the Institute of Education Sciences in accordance with section
2(d)(B) of the Educational Opportunities Act.

“(2) NO PERSONALLY IDENTIFIABLE INFORMATION.—In preparing and submitting the report described paragraph (1)(B), a school shall not include any personally identifiable information regarding a student.

“(f) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under any provision of this chapter for any expense for which a credit is allowed under this section.

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

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

“Sec. 25E. Qualified elementary and secondary education tuition.”.

(b) CREDIT FOR CORPORATIONS.—

(1) IN GENERAL.—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. 45S. CONTRIBUTIONS TO SCHOLARSHIP GRANTING ORGANIZATIONS.

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

“(b) LIMITATION.—The amount of the credit determined under this section for any taxable year shall not exceed $100,000.

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

“(d) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under any provision of this chapter for any expense for which a credit is allowed under this section.

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

(2) CONFORMING AMENDMENTS.—

(A) Section 38(b) of such Code is amended by striking “plus” at the end of paragraph (35), by striking the period and inserting “, plus” at the end of paragraph (36), and by adding at the end the following new paragraph:
“(37) the education scholarship credit determined under section 45S(a).”.

(B) The table of section for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

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

(c) Excise Tax on Failure of Scholarship Granting Organizations to Make Distributions.—

(1) In General.—Chapter 42 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subchapter:

“Subchapter H—Scholarship Granting Organizations

“Sec. 4968. Tax on failure to distribute receipts.

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(a) Tax Imposed.—There is hereby imposed a tax on the failure of an scholarship granting organization (as defined in section 25E(c)(2)) to make distributions in any taxable year in an amount equal to or in excess of the required distribution amount before the distribution deadline.

(b) Amount of Tax.—The tax imposed by subsection (a) shall be equal to 15 percent of the excess (if any) of—
“(1) the required distribution amount with respect to the taxable year, over

“(2) the amount of receipts of the scholarship granting organization for such taxable year which are distributed before the distribution deadline with respect to such receipts.

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

“(1) REQUIRED DISTRIBUTION AMOUNT.—The required distribution amount with respect to a taxable year is the amount equal to 90 percent of the total receipts of the scholarship granting organization for such taxable year.

“(2) DISTRIBUTIONS.—The term ‘distribution’ includes amounts which are formally committed but not distributed.

“(3) DISTRIBUTION DEADLINE.—The distribution deadline with respect to receipts for a taxable year is the first day of the second taxable year following the taxable year in which such receipts are received by the scholarship granting organization.

“(d) REASONABLE CAUSE EXCEPTION.—The tax imposed by subsection (a) shall not apply with respect to any failure to make required distributions before the distribution deadline which is not willful and is due to reasonable cause.”.
(2) ABATEMENT OF TAX.—
   (A) GENERAL RULE.—Subsection (b) of section 4962 of such Code is amended by striking “or G” and inserting “G, or H”.
   (B) FIRST TIER TAX.—Subsection (a) of section 4963 of such Code is amended by inserting “4968,” after “4967,”.
   (C) TAXABLE EVENT.—Subsection (c) of section 4963 of such Code is amended by inserting “4968,” after “4967,”.
(3) CORRECTION PERIOD.—Subparagraph (A) of section 4963(e)(2) of such Code is amended by inserting “or 4968” after “4942”.
(4) CONFORMING AMENDMENT.—The table of subchapters for chapter 42 of such Code is amended by adding at the end the following new item:
   “SUBCHAPTER H. SCHOLARSHIP GRANTING ORGANIZATIONS”.
(d) EVALUATIONS.—
(1) DEFINITIONS.—In this section—
   (A) the terms “eligible student”, “qualified elementary and secondary education expenses”, and “scholarship granting organization” have the meanings given such terms in section 25E(c) of the Internal Revenue Code of 1986,
(B) the term “Director” means the Director of the Institute of Education Sciences; and

(C) the term “participating student” means an eligible student who receives a scholarship for qualified elementary and secondary education expenses from a scholarship granting organization.

(2) Evaluations.—

(A) In general.—By not later than April 1 of the year following the year of the date of enactment of this Act, and by April 1 of each subsequent year, the Director shall conduct an annual evaluation to determine the effectiveness of scholarships provided by scholarship granting organizations to eligible students in improving the academic achievement and success of the eligible students.

(B) Contents of the evaluation.—In conducting the evaluation required under this subsection, the Director shall—

(i) request, from each scholarship granting organization, the reports provided to the scholarship granting organization by the schools accepting participating stu-
dents, in accordance with section 25E(e)(1)(B);

(ii) using the reports described in clause (i), assess the academic achievement of all participating students in grades 3 through 12, based on the nationally norm-referenced standardized test or State-recognized assessment used by each school; and

(iii) evaluate the school retention rates, secondary school graduation rates, and institution of higher education admission rates of participating students;

(iv) evaluate the success of the tax credits allowed under section 25E and 45S of the Internal Revenue Code of 1986, as added by this Act, in expanding school choice options for parents of participating students, increasing the satisfaction of such parents and students, and increasing parental involvement of such parents in the education of their students; and

(v) evaluate such other issues with respect to the education of participating stu-
dents as the Director considers appropriate for inclusion in the evaluation.

(3) REPORTS.—By not later than April 1 of the year after the year of the first evaluation under paragraph (2), and by April 1 of each subsequent year, the Director shall submit to the Committee on Ways and Means and the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Finance and the Committee on Education and the Workforce of the House and Representatives, an annual report on scholarships provided by scholarship granting organizations that incorporates the results of the most recent evaluation described in paragraph (2).

(4) PROHIBITION.—No personally identifiable information shall be disclosed in the data, evaluations, and reports required under this subsection.

(5) PUBLIC AVAILABILITY.—The Director shall make all evaluations, reports, and underlying data gathered pursuant to this subsection available to the public, upon request and in a timely manner following submission of the applicable report or evaluation under this subsection, subject to paragraph (4).
(e) EFFECTIVE DATE.—The amendments made by subsection (a), (b), and (e) shall apply to taxable years beginning after December 31, 2013.