

106TH CONGRESS  
1ST SESSION

# S. 138

To amend the Internal Revenue Code of 1986 to allow a credit against income tax for expenses of attending elementary and secondary schools and for contributions to charitable organizations which provide scholarships for children to attend such schools.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

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

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a credit against income tax for expenses of attending elementary and secondary schools and for contributions to charitable organizations which provide scholarships for children to attend such schools.

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 “K-12 Community Par-  
5 ticipation Act of 1999”.

1 **SEC. 2. CREDIT FOR ELEMENTARY AND SECONDARY**  
 2 **SCHOOL EXPENSES AND FOR CONTRIBU-**  
 3 **TIONS TO CHARITABLE ORGANIZATIONS**  
 4 **WHICH PROVIDE SCHOLARSHIPS FOR STU-**  
 5 **DENTS ATTENDING SUCH SCHOOLS.**

6 (a) IN GENERAL.—Subpart B of part IV of sub-  
 7 chapter A of chapter 1 of the Internal Revenue Code of  
 8 1986 is amended by adding at the end the following new  
 9 section:

10 **“SEC. 30B. CREDIT FOR ELEMENTARY AND SECONDARY**  
 11 **SCHOOL EXPENSES AND FOR CONTRIBU-**  
 12 **TIONS TO CHARITABLE ORGANIZATIONS**  
 13 **WHICH PROVIDE SCHOLARSHIPS FOR STU-**  
 14 **DENTS ATTENDING SUCH SCHOOLS.**

15 “(a) ALLOWANCE OF CREDIT.—There shall be al-  
 16 lowed as a credit against the tax imposed by this chapter  
 17 for the taxable year an amount equal to the sum of—

18 “(1) the qualified elementary and secondary  
 19 education expenses which are paid or incurred by  
 20 the taxpayer during such taxable year, and

21 “(2) the qualified charitable contributions of  
 22 the taxpayer for the taxable year.

23 “(b) MAXIMUM CREDIT.—The credit allowed by sub-  
 24 section (a) for any taxable year shall not exceed—

25 “(1) \$100 in the case of taxable years begin-  
 26 ning in calendar year 1999,

1           “(2) \$150 in the case of taxable years begin-  
2           ning in calendar year 2000,

3           “(3) \$200 in the case of taxable years begin-  
4           ning in calendar year 2001, and

5           “(4) \$250 in the case of taxable years begin-  
6           ning after calendar year 2001.

7   In the case of a joint return, the limitation under this sub-  
8   section shall be twice the dollar amount otherwise applica-  
9   ble under the preceding sentence.

10       “(c) QUALIFIED ELEMENTARY AND SECONDARY  
11   EDUCATION EXPENSES.—For purposes of this section—

12           “(1) IN GENERAL.—The term ‘qualified elemen-  
13       tary and secondary education expenses’ means tui-  
14       tion, fees, tutoring, special needs services, books,  
15       supplies, computer equipment (including related  
16       software and services) and other equipment, trans-  
17       portation, and supplementary expenses required for  
18       the enrollment or attendance of any individual at a  
19       public, private, or religious school.

20           “(2) SPECIAL RULE FOR HOME-SCHOOLING.—  
21       Such term shall include expenses described in para-  
22       graph (1) required for education provided for  
23       homeschooling if the requirements of any applicable  
24       State or local law are met with respect to such edu-  
25       cation.

1           “(3) SCHOOL.—The term ‘school’ means any  
 2           school which provides elementary education or sec-  
 3           ondary education (through grade 12), as determined  
 4           under State law.

5           “(d) QUALIFIED CHARITABLE CONTRIBUTION.—For  
 6           purposes of this section—

7           “(1) IN GENERAL.—The term ‘qualified chari-  
 8           table contribution’ means, with respect to any tax-  
 9           able year, the amount allowable as a deduction  
 10          under section 170 (determined without regard to  
 11          subsection (e)(1)) for cash contributions to a school  
 12          tuition organization.

13          “(2) SCHOOL TUITION ORGANIZATION.—

14                 “(A) IN GENERAL.—The term ‘school tui-  
 15                 tion organization’ means any organization de-  
 16                 scribed in section 170(c)(2) if the annual dis-  
 17                 bursements of the organization for elementary  
 18                 and secondary school scholarship are normally  
 19                 not less than 90 percent of the sum of such or-  
 20                 ganization’s annual gross income and contribu-  
 21                 tions and gifts.

22                 “(B) ELEMENTARY AND SECONDARY  
 23                 SCHOOL SCHOLARSHIP.—The term ‘elementary  
 24                 and secondary school scholarship’ means any  
 25                 scholarship excludable from gross income under

1           section 117 for expenses related to education at  
2           or below the 12th grade.

3           “(e) SPECIAL RULES.—

4           “(1) DENIAL OF DOUBLE BENEFIT.—No deduc-  
5           tion shall be allowed under this chapter for any con-  
6           tribution for which credit is allowed under this sec-  
7           tion.

8           “(2) APPLICATION WITH OTHER CREDITS.—

9           The credit allowable under subsection (a) for any  
10          taxable year shall not exceed the excess (if any) of—

11           “(A) the regular tax for the taxable year,  
12           reduced by the sum of the credits allowable  
13           under subpart A and the preceding sections of  
14           this subpart, over

15           “(B) the tentative minimum tax for the  
16           taxable year.

17           “(3) CONTROLLED GROUPS.—All persons who  
18           are treated as one employer under subsection (a) or  
19           (b) of section 52 shall be treated as 1 taxpayer for  
20           purposes of this section.

21           “(f) ELECTION TO HAVE CREDIT NOT APPLY.—A  
22           taxpayer may elect to have this section not apply for any  
23           taxable year.”

24           (b) CLERICAL AMENDMENT.—The table of sections  
25           for subpart B of part IV of subchapter A of chapter 1

1 of such Code is amended by adding at the end the follow-  
2 ing new item:

“Sec. 30B. Credit for elementary and secondary school expenses  
and for contributions to charitable organizations  
which provide scholarships for students attending  
such schools.”

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to taxable years beginning after  
5 December 31, 1998.

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