To amend the Internal Revenue Code of 1986 to provide rules for the disallowance and recapture of certain charitable contributions to colleges and universities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. WYDEN 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 provide rules for the disallowance and recapture of certain charitable contributions to colleges and universities, and for other purposes.

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 “College Admissions Fairness Act”.

SEC. 2. TREATMENT OF CERTAIN CHARITABLE CONTRIBUTIONS TO COLLEGES AND UNIVERSITIES.

(a) In General.—Section 170(f) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(19) Denial of deduction and recapture for certain charitable contributions to colleges and universities.—

“(A) In general.—In any taxable year in which the taxpayer is a restricted contributor—

“(i) the deduction under subsection (a) shall be reduced (but not below zero) by the disallowed amount, and

“(ii) any disallowed amount that exceeds the amount of the reduction under clause (i) shall be included in the income of such restricted contributor in such taxable year.

“(B) Restricted contributor.—For purposes of this paragraph, the term ‘restricted contributor’ means, with respect to any taxable year, any individual—

“(i) who made any specified contribution to a specified college or university or to any related organization of such speci-
specified college or university during the applicable period, and

“(ii) who has an applicable child who

is enrolled at such specified college or university during such taxable year.

“(C) DISALLOWED AMOUNT.—For purposes of this paragraph, with respect to any specified college or university for any taxable year, the disallowed amount is the amount equal to the excess (if any) of—

“(i) the amount of specified contributions of the taxpayer to such specified college or university during the applicable period, over

“(ii) the sum of—

“(I) $100,000, plus

“(II) the aggregate amount of the reductions under subparagraph (A)(i) and inclusions under subparagraph (A)(ii) for all taxable years in the applicable period preceding the taxable year for which the determination is being made.

“(D) SPECIFIED CONTRIBUTION.—For purposes of this paragraph, the term ‘specified
contribution’ means, with respect to any specified college or university at which an applicable child of a restricted contributor is enrolled during the taxable year—

“(i) any contribution for which a deduction is allowed under this section (or would have been allowed but for this paragraph or subsection (b)) and which is made, directly or indirectly, during the applicable period to such specified college or university or to any related organization by—

“(I) the restricted contributor, or

“(II) a partnership, corporation, trust, or other entity for the benefit of or at the direction of the restricted contributor,

“(ii) any contribution which is made during the applicable period to such specified college or university or to any related organization by—

“(I) a donor advised fund (as defined in section 4966(d)(2)) with respect to which the restricted contrib-
utor is a person described in section 4966(d)(2)(A)(iii), or

“(II) a private foundation with respect to which the restricted contributor is a disqualified person (as defined in section 4946(a)), and

“(iii) any legally binding pledge which is made during the applicable period to such specified college or university or to any related organization by a person described in clause (i) or (ii).

“(E) APPLICABLE PERIOD.—For purposes of this subsection, the term ‘applicable period’ means, with respect to any taxable year, the 6-year period ending with the last day of the taxable year.

“(F) APPLICABLE CHILD.—For purposes of this subsection, the term ‘applicable child’ means, with respect to any restricted contributor, any individual who bears a relationship to such restricted contributor that is described in section 152(c)(2)(A).

“(G) SPECIFIED COLLEGE OR UNIVERSITY; RELATED ORGANIZATION.—For purposes of this section—
"(i) Specified college or university.—The term ‘specified college or university’ means any institution of higher education (as defined in section 101 of the Higher Education Act of 1965) other than an institution which—

"(I) has a written policy that prohibits as a factor in admissions decisions the consideration of—

"(aa) direct or indirect donations from an applicant or family member of an applicant, and

"(bb) the financial ability of an applicant or family member of an applicant to make a donation, and

"(II) demonstrates to the satisfaction of the Secretary that such policy is properly enforced.

"(ii) Related organization.—The term ‘related organization’ means, with respect to any specified college or university, an organization which—
“(I) controls, or is controlled by, such specified college or university,

“(II) is controlled by 1 or more persons which also control such specified college or university, or

“(III) is a supported organization (as defined in section 509(f)(3)), or an organization described in section 509(a)(3), during the taxable year with respect to such specified college or university.

“(H) NO DOUBLE TAXATION.—Any specified contribution which is taken into account under subsection (a) with respect to an applicable child for any taxable year shall not be taken into account with respect to another applicable child in any subsequent year.

“(I) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations that provide for the proper treatment of legally binding pledges and other types of specified contributions.”.
(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning 1 year or more after the date of the enactment of this Act.

SEC. 3. INFORMATION TO BE COLLECTED.

(a) PROGRAM PARTICIPATION AGREEMENTS.—Section 487(a) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)) is amended by adding at the end the following:

“(30) The institution has a written policy that prohibits as a factor in admissions decisions the consideration of—

“(A) direct or indirect donations from an applicant or family member of an applicant; and

“(B) the financial ability of an applicant or a family member of an applicant to make a donation.”.

(b) TITLE IV AUDITS.—Section 487(c) of the Higher Education Act of 1965 (20 U.S.C. 1094(c)) is amended by adding at the end the following:

“(8) Notwithstanding any other provisions of this title, the Secretary shall prescribe such regulations as may be necessary to provide for a requirement that an eligible institution, in completing the compliance audit in accord-
ance with paragraph (1)(A), shall submit a copy of the written policy described in subsection (a)(30).”.

(c) Duties of Education Statistics Center.—

(1) Higher education act of 1965.—Section 132(i)(1) of the Higher Education Act of 1965 (20 U.S.C. 1015a(i)(1)) is amended by adding at the end the following:

“(AA) With respect to students who are applicable children (as described in section 170(f)(19)(F) of the Internal Revenue Code) of any person who has made a direct or indirect donation to the institution or a related organization (as defined in section 170(f)(19)(G)(ii) of such Code) during the 6-year period ending with the calendar year in which the student applied—

“(i) the total number of such students who applied to the institution;

“(ii) the total number of such students who were admitted by the institution; and

“(iii) the total number of such students who enrolled at the institution.”.

(2) Education sciences reform act of 2002.—Section 153(a)(1) of the Education Sciences
Reform Act of 2002 (20 U.S.C. 9543(a)(1)) is amended—

(A) in subparagraph (N), by striking “and” after the semicolon;

(B) in subparagraph (O), by inserting “and” after the semicolon; and

(C) by adding at the end the following:

“(P) with respect to students who are applicable children (as described in section 170(f)(19)(F) of the Internal Revenue Code) of any person who has made a direct or indirect donation to the institution or a related organization (as defined in section 170(f)(19)(G)(ii) of such Code) during the 6-year period ending with the calendar year in which the student applied—

“(i) the total number of such students who applied to the institution;

“(ii) the total number of such students who were admitted by the institution; and

“(iii) the total number of such students who enrolled at the institution;”.
(d) INSTITUTIONAL DISSEMINATION ACTIVITIES.—

Section 485(a) of the Higher Education Act of 1965 (20 U.S.C. 1092(a)) is amended—

(1) in subparagraph (U), by striking “and” after the semicolon;

(2) in subparagraph (V), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

“(W) the institution’s written policy that prohibits as a factor in admissions decisions the consideration of—

“(i) direct or indirect donations from an applicant or family member of an applicant; and

“(ii) the financial ability of an applicant or a family member of an applicant to make a donation; and

“(X) with respect to students who are applicable children (as described in section 170(f)(19)(F) of the Internal Revenue Code) of any person who has made a direct or indirect donation to the institution or a related organization (as defined in section 170(f)(19)(G)(ii) of such Code) during the 6-year period ending with the calendar year in which the student applied—
“(i) the total number of such students who applied to the institution;
“(ii) the total number of such students who were admitted by the institution; and
“(iii) the total number of such students who enrolled at the institution.”.

(e) INFORMATION INCLUDED ON TAX INFORMATION RETURNS.—

(1) IN GENERAL.—Section 6033 of the Internal Revenue Code of 1986 is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

“(n) ADDITIONAL INFORMATION REQUIRED FOR INSTITUTIONS OF HIGHER EDUCATION.—Every organization which is an institution of higher education (as defined in section 101 of the Higher Education Act of 1965) and required to file a return under subsection (a) shall include with such return—

“(1) a copy of the written policy described in section 487(a)(30) of Higher Education Act of 1965, and
“(2) the information described in section 132(i)(1)(AA) of such Act.”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to returns filed for tax-
able years beginning 1 year or more after the date
of the enactment of this Act.