

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2240

To amend the Internal Revenue Code of 1986 to promote savings for qualified higher education expenses.

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IN THE HOUSE OF REPRESENTATIVES

MAY 24, 1993

Mr. JACOBS (for himself and Mr. MCCREERY) introduced the following bill;  
which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to promote savings for qualified higher education expenses.

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 “Higher Education Sav-  
5 ings Plan Act of 1993”.

6 **SEC. 2. PENALTY FREE WITHDRAWALS FROM ANNUITIES**

7 **FOR HIGHER EDUCATION EXPENSES.**

8 (a) IN GENERAL.—Paragraph (2) of section 72(q) of  
9 the Internal Revenue Code of 1986 (relating to 10-percent  
10 penalty for premature distributions from annuity con-

1 tracts) is amended by striking “or” at the end of subpara-  
2 graph (I), by striking the period at the end of subpara-  
3 graph (J) and inserting “, or”, and by inserting after sub-  
4 paragraph (J) the following new subparagraph:

5 “(K) which is a qualified higher education ex-  
6 pense distribution (as defined in paragraph (4)).”

7 (b) QUALIFIED HIGHER EDUCATION EXPENSE DIS-  
8 TRIBUTION.—Subsection (q) of section 72 of such Code  
9 is amended by adding at the end thereof the following new  
10 paragraph:

11 “(4) QUALIFIED HIGHER EDUCATION EXPENSE  
12 DISTRIBUTION.—

13 “(A) IN GENERAL.—For purposes of para-  
14 graph (2)(K), the term ‘qualified higher edu-  
15 cation expense distribution’ means any distribu-  
16 tion from a designated higher education ex-  
17 pense annuity to the taxpayer if such distribu-  
18 tion is used within 90 days of the date of the  
19 distribution to pay qualified tuition and related  
20 expenses (as defined in section 117(b)) required  
21 for the enrollment or attendance of such tax-  
22 payer, the taxpayer’s spouse, or a child (as de-  
23 fined in section 151(c)(3)) or grandchild of  
24 such taxpayer at an eligible educational institu-  
25 tion (as defined in section 135(c)(3)); except

1 that such expenses shall be reduced by any  
2 amount excluded from gross income under sec-  
3 tion 135 by reason of such expenses.

4 “(B) DESIGNATED HIGHER EDUCATION  
5 EXPENSE ANNUITY.—

6 “(i) IN GENERAL.—The term ‘des-  
7 ignated higher education expense annuity’  
8 means any annuity purchased after De-  
9 cember 31, 1992, and designated for pur-  
10 poses of this paragraph by the purchaser  
11 at the time of purchase as an annuity to  
12 which this paragraph applies.

13 “(ii) CERTAIN ANNUITIES RECEIVED  
14 IN AN EXCHANGE NOT ELIGIBLE.—Such  
15 term shall not include any annuity ac-  
16 quired in an exchange to which section  
17 1035 applies unless the annuity given up  
18 by the taxpayer in the exchange was a des-  
19 ignated higher education expense annuity.”

20 (c) GIFT TAX TREATMENT.—Subsection (e) of sec-  
21 tion 2503 of such Code is amended by adding at the end  
22 thereof the following new paragraph:

23 “(3) TREATMENT OF PREMIUMS PAID UNDER  
24 DESIGNATED HIGHER EDUCATION EXPENSE ANNU-  
25 ITIES.—

1           “(A) IN GENERAL.—Any premium paid for  
2 a designated higher education expense annuity  
3 shall not be treated as transfer of property by  
4 gift for purposes of this chapter.

5           “(B) RECAPTURE RULES.—If any pre-  
6 mium paid by any person for a designated high-  
7 er education expense annuity is not treated as  
8 a taxable gift solely by reason of subparagraph  
9 (A)—

10           “(i) LIFETIME DISTRIBUTIONS NOT  
11 USED FOR EDUCATIONAL PURPOSES.—Any  
12 disqualified lifetime distribution from the  
13 portion of any annuity attributable to such  
14 premium shall be treated as a transfer by  
15 gift by such person.

16           “(ii) INCLUSION IN GROSS ESTATE.—  
17 The gross estate of such person shall in-  
18 clude the value (as of the date of the dece-  
19 dent’s death or applicable valuation date  
20 set forth in section 2032) of the portion of  
21 any annuity attributable to such premium.

22           “(C) DISQUALIFIED LIFETIME DISTRIBU-  
23 TION.—For purposes of subparagraph (B), the  
24 term ‘disqualified lifetime distribution’ means  
25 any distribution which is not a qualified higher

1 education distribution and which is made dur-  
2 ing the life of the person referred to in subpara-  
3 graph (B) to or for the benefit of another per-  
4 son.

5 “(D) OTHER DEFINITIONS.—For purposes  
6 of this paragraph, the terms ‘designated higher  
7 education expense annuity’ and ‘qualified higher  
8 education expense distribution’ have the respec-  
9 tive meanings given such terms by section  
10 72(q)(4).”

11 (d) EFFECTIVE DATE.—The amendments made by  
12 this section shall take effect on January 1, 1994.

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