

105TH CONGRESS
1ST SESSION

H. R. 1694

To amend the Internal Revenue Code of 1986 to allow individuals a credit against income tax for certain amounts contributed to an education investment account.

IN THE HOUSE OF REPRESENTATIVES

MAY 21, 1997

Mrs. JOHNSON of Connecticut introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to allow individuals a credit against income tax for certain amounts contributed to an education investment account.

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; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Higher Education Savings Credit Act of 1997”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment
9 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
2 sion of the Internal Revenue Code of 1986.

3 **SEC. 2. CREDIT FOR CONTRIBUTIONS TO EDUCATION IN-**
4 **VESTMENT ACCOUNTS.**

5 (a) IN GENERAL.—Subpart A of part IV of sub-
6 chapter A of chapter 1 (relating to nonrefundable personal
7 credits) is amended by inserting after section 23 the fol-
8 lowing new section:

9 **“SEC. 24. CONTRIBUTIONS TO EDUCATION INVESTMENT AC-**
10 **COUNTS.**

11 “(a) ALLOWANCE OF CREDIT.—

12 “(1) IN GENERAL.—In the case of an individ-
13 ual, there shall be allowed as a credit against the tax
14 imposed by this chapter for the taxable year an
15 amount equal to the applicable percentage of the
16 contributions made by the taxpayer for the taxable
17 year to an education investment account of an ac-
18 count holder who is an individual with respect to
19 whom the taxpayer is allowed a deduction under sec-
20 tion 151(c) for such taxable year.

21 “(2) APPLICABLE PERCENTAGE.—For purposes
22 of paragraph (1), the applicable percentage is the
23 percentage determined in accordance with the follow-
24 ing table with respect to the age of the account hold-
25 er as of the close of the taxable year:

“If the account holder’s age is:	The applicable percentage is:
Not over 6	50
Over 6 but not over 9	40
Over 9 but not over 12	30
Over 12 but not over 15	20
Over 15 but not over 18	10

1 “(b) LIMITATION ON AMOUNT OF CONTRIBUTIONS
2 TAKEN INTO ACCOUNT IN DETERMINING CREDIT.—The
3 amount of contributions which may be taken into account
4 under subsection (a) with respect to each account holder
5 shall not exceed \$500.

6 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
7 poses of this section—

8 “(1) EDUCATION INVESTMENT ACCOUNT.—The
9 term ‘education investment account’ means a trust
10 created or organized in the United States exclusively
11 for the purpose of paying the qualified higher edu-
12 cation expenses of the account holder, but only if the
13 written governing instrument creating the trust
14 meets the following requirements:

15 “(A) No contribution will be accepted—

16 “(i) unless it is in cash,

17 “(ii) except in the case of rollover con-
18 tributions from another education invest-
19 ment account, in excess of \$1,500 for any
20 calendar year, and

21 “(iii) after the date on which the ac-
22 count holder attains age 18.

1 “(B) The trustee is a bank (as defined in
2 section 408(n)) or another person who dem-
3 onstrates to the satisfaction of the Secretary
4 that the manner in which that person will ad-
5 minister the trust will be consistent with the re-
6 quirements of this section.

7 “(C) No part of the trust assets will be in-
8 vested in life insurance contracts.

9 “(D) The assets of the trust shall not be
10 commingled with other property except in a
11 common trust fund or common investment
12 fund.

13 “(E) Any balance in the education invest-
14 ment account on the day after the date on
15 which the account holder attains age 30 (or, if
16 earlier, the date on which such holder dies)
17 shall be distributed within 30 days of such date
18 to the account holder (or in the case of death,
19 the beneficiary).

20 “(2) QUALIFIED HIGHER EDUCATION EX-
21 PENSES.—

22 “(A) IN GENERAL.—The term ‘qualified
23 higher education expenses’ means the cost of
24 attendance (within the meaning of section 472
25 of the Higher Education Act of 1965 (20

1 U.S.C. 1087ll), as in effect on the date of the
2 enactment of the Higher Education Access and
3 Affordability Act of 1997) of the account holder
4 at an eligible educational institution, except
5 that such expenses shall be reduced by—

6 “(i) the amount excluded from gross
7 income under section 135 by reason of
8 such expenses, and

9 “(ii) the amount of the reduction de-
10 scribed in section 135(d)(1) (other than
11 subparagraph (E)).

12 “(B) STATE TUITION PLANS.—Such term
13 shall include amounts paid or incurred to pur-
14 chase tuition credits or certificates, or to make
15 contributions to an account, under a qualified
16 State tuition program (as defined in section
17 529(b)).

18 “(3) ELIGIBLE EDUCATIONAL INSTITUTION.—
19 The term ‘eligible educational institution’ has the
20 meaning given such term by section 135(e)(3).

21 “(4) ACCOUNT HOLDER.—The term ‘account
22 holder’ means the individual for whose benefit the
23 education investment account is established.

24 “(5) TIME WHEN CONTRIBUTIONS DEEMED
25 MADE.—A taxpayer shall be deemed to have made a

1 contribution on the last day of the preceding taxable
2 year if the contribution is made on account of such
3 taxable year and is made not later than the time
4 prescribed by law for filing the return for such tax-
5 able year (not including extensions thereof).

6 “(6) ACCOUNT MAY NOT BE ESTABLISHED FOR
7 BENEFIT OF MORE THAN 1 INDIVIDUAL.—An edu-
8 cation investment account may not be established for
9 the benefit of more than 1 individual.

10 “(7) SPECIAL RULE WHERE MORE THAN 1 AC-
11 COUNT.—If, at any time during a calendar year, 2
12 or more education investment accounts are main-
13 tained for the benefit of an individual, only the ac-
14 count first established shall be treated as an edu-
15 cation investment account for purposes of this sec-
16 tion. This paragraph shall not apply to the extent
17 more than 1 account exists solely by reason of a roll-
18 over contribution.

19 “(d) TAX TREATMENT OF ACCOUNT.—

20 “(1) IN GENERAL.—An education investment
21 account shall be exempt from taxation under this
22 subtitle. Notwithstanding the preceding sentence,
23 the education investment account shall be subject to
24 the taxes imposed by section 511 (relating to imposi-

1 tion of tax on unrelated business income of chari-
2 table organizations).

3 “(2) SPECIAL RULES.—Rules similar to the
4 rules of paragraphs (2) and (4) of section 408(e)
5 shall apply to any education investment account, and
6 any amount treated as distributed under such rules
7 shall be treated as not used to pay qualified higher
8 education expenses.

9 “(e) TAX TREATMENT OF DISTRIBUTIONS.—

10 “(1) IN GENERAL.—Except as otherwise pro-
11 vided in this subsection, any amount paid or distrib-
12 uted out of an education investment account shall be
13 included in gross income of the payee or distributee
14 for the taxable year in the manner prescribed by sec-
15 tion 72. For purposes of the preceding sentence,
16 rules similar to the rules of section 408(d)(2) shall
17 apply.

18 “(2) DISTRIBUTION USED TO PAY EDU-
19 CATIONAL EXPENSES.—Paragraph (1) shall not
20 apply to any payment or distribution out of an edu-
21 cation investment account to the extent such pay-
22 ment or distribution is used exclusively to pay the
23 qualified higher education expenses of the account
24 holder.

1 “(3) SPECIAL RULE FOR APPLYING SECTION
2 2503.—If any payment or distribution from an edu-
3 cation investment account is used exclusively for the
4 payment to an eligible educational institution of the
5 qualified higher education expenses of the account
6 holder, such payment shall be treated as a qualified
7 transfer for purposes of section 2503(e).

8 “(4) ADDITIONAL TAX AND CREDIT RECAPTURE
9 FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL
10 EXPENSES.—

11 “(A) IN GENERAL.—

12 “(i) ADDITIONAL TAX.—The tax im-
13 posed by this chapter for any taxable year
14 on any taxpayer who receives a payment or
15 distribution from an education investment
16 account which is includible in gross income
17 under paragraph (1) shall be increased by
18 10 percent of the amount which is so in-
19 cludible.

20 “(ii) CREDIT RECAPTURE.—If any
21 payment or distribution out of an edu-
22 cation investment account is not used ex-
23 clusively to pay the qualified higher edu-
24 cation expenses of the account holder, the
25 account holder’s tax imposed by this chap-

1 ter for the taxable year in which such pay-
2 ment or distribution is made shall be in-
3 creased by the lesser of the amount of the
4 payment or distribution or the excess (if
5 any) of—

6 “(I) the aggregate credit allowed
7 under this section for contributions to
8 such account, over

9 “(II) the aggregate increase in
10 tax under this clause for all prior tax-
11 able years with respect to payments
12 and distributions out of such account.

13 “(B) EXCEPTION FOR DISABILITY, DEATH,
14 OR SCHOLARSHIP.—Subparagraph (A) shall not
15 apply if the payment or distribution is—

16 “(i) made on account of the death or
17 disability of the account holder, or

18 “(ii) made on account of a scholarship
19 (or allowance or payment described in sec-
20 tion 135(d)(1) (B) or (C)) received by the
21 account holder to the extent the amount of
22 the payment or distribution does not ex-
23 ceed the amount of the scholarship, allow-
24 ance, or payment.

1 “(C) EXCESS CONTRIBUTIONS RETURNED
2 BEFORE DUE DATE OF RETURN.—Subpara-
3 graph (A) shall not apply to the distribution to
4 a contributor of any contribution paid during a
5 taxable year to an education investment account
6 to the extent that such contribution, when
7 added to previous contributions to the account
8 during the taxable year, exceeds \$1,500 if—

9 “(i) such distribution is received on or
10 before the day prescribed by law (including
11 extensions of time) for filing such contribu-
12 tor’s return for such taxable year, and

13 “(ii) such distribution is accompanied
14 by the amount of net income attributable
15 to such excess contribution.

16 Any net income described in clause (ii) shall be
17 included in the gross income of the contributor
18 for the taxable year in which such excess con-
19 tribution was made.

20 “(5) ROLLOVER CONTRIBUTIONS.—Paragraph
21 (1) shall not apply to any amount paid or distrib-
22 uted from an education investment account to the
23 extent that the amount received is paid into another
24 education investment account for the benefit of the
25 account holder not later than the 60th day after the

1 day on which the holder receives the payment or dis-
2 tribution. The preceding sentence shall not apply to
3 any payment or distribution if it applied to any prior
4 payment or distribution during the 12-month period
5 ending on the date of the payment or distribution.

6 “(6) SPECIAL RULES FOR DEATH AND DI-
7 VORCE.—Rules similar to the rules of section 220(f)
8 (7) and (8) shall apply.

9 “(f) COMMUNITY PROPERTY LAWS.—This section
10 shall be applied without regard to any community property
11 laws.

12 “(g) CUSTODIAL ACCOUNTS.—For purposes of this
13 section, a custodial account shall be treated as a trust if
14 the assets of such account are held by a bank (as defined
15 in section 408(n)) or another person who demonstrates,
16 to the satisfaction of the Secretary, that the manner in
17 which he will administer the account will be consistent
18 with the requirements of this section, and if the custodial
19 account would, except for the fact that it is not a trust,
20 constitute an account described in subsection (b)(1). For
21 purposes of this title, in the case of a custodial account
22 treated as a trust by reason of the preceding sentence,
23 the custodian of such account shall be treated as the trust-
24 ee thereof.

1 “(h) REPORTS.—The trustee of an education invest-
2 ment account shall make such reports regarding such ac-
3 count to the Secretary and to the account holder with re-
4 spect to contributions, distributions, and such other mat-
5 ters as the Secretary may require under regulations. The
6 reports required by this subsection shall be filed at such
7 time and in such manner and furnished to such individuals
8 at such time and in such manner as may be required by
9 those regulations.”

10 (b) TAX ON PROHIBITED TRANSACTIONS.—Section
11 4975 (relating to prohibited transactions) is amended—

12 (1) by adding at the end of subsection (c) the
13 following new paragraph:

14 “(5) SPECIAL RULE FOR EDUCATION INVEST-
15 MENT ACCOUNTS.—An individual for whose benefit
16 an education investment account is established and
17 any contributor to such account shall be exempt
18 from the tax imposed by this section with respect to
19 any transaction concerning such account (which
20 would otherwise be taxable under this section) if,
21 with respect to such transaction, the account ceases
22 to be an education investment account by reason of
23 the application of section 24 to such account.”; and

24 (2) in subsection (e)(1), by striking “or” at the
25 end of subparagraph (D), by redesignating subpara-

1 graph (E) as subparagraph (F), and by inserting
2 after subparagraph (D) the following new subpara-
3 graph:

4 “(E) a education investment account de-
5 scribed in section 24(c), or”.

6 (c) FAILURE TO PROVIDE REPORTS ON EDUCATION
7 INVESTMENT ACCOUNTS.—Section 6693 (relating to fail-
8 ure to provide reports on individual retirement accounts
9 or annuities) is amended—

10 (1) by striking “**INDIVIDUAL RETIREMENT**”
11 and inserting “**CERTAIN TAX-FAVORED**” in the
12 heading of such section, and

13 (2) in subsection (a)(2), by striking “and” at
14 the end of subparagraph (A), by striking the period
15 at the end of subparagraph (B) and inserting “,
16 and”, and by adding at the end the following new
17 subparagraph:

18 “(C) section 24(h) (relating to education
19 investment accounts).”

20 (d) COORDINATION WITH SAVINGS BOND EXCLU-
21 SION.—Section 135(d)(1) is amended by striking “or” at
22 the end of subparagraph (C), by striking the period at the
23 end of subparagraph (D) and inserting “, or” , and by
24 adding at the end the following new subparagraph:

1 “(E) a payment or distribution from an
2 education investment account (as defined in
3 section 24(c)).”

4 (e) CLERICAL AMENDMENTS.—

5 (1) The table of sections for subpart A of part
6 IV of subchapter A of chapter 1 is amended by in-
7 serting after the item relating to section 23 the fol-
8 lowing new item:

 “Sec. 24. Contributions to education investment accounts.”

9 (2) The item relating to section 6693 in the
10 table of sections for subchapter B of chapter 68 is
11 amended by striking “individual retirement” and in-
12 serting “certain tax-favored”.

13 (f) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to taxable years beginning after
15 December 31, 1997.

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