

105TH CONGRESS
1ST SESSION

H. R. 2847

To amend the Internal Revenue Code of 1986 to provide tax incentives
for education.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 6, 1997

Ms. GRANGER (for herself, Mr. WELLER, Mr. ARMEY, Mr. BLUNT, Mr. BOB SCHAFFER of Colorado, Mr. ENGLISH of Pennsylvania, Mr. PAUL, Mr. HILLEARY, Mr. PITTS, and Mr. SAM JOHNSON of Texas) 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 provide
tax incentives for education.

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; COORDINATION WITH TAXPAYER**

4 **RELIEF ACT OF 1997.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Higher Education Affordability and Availability Act”.

7 (b) COORDINATION WITH TAXPAYER RELIEF ACT OF
8 1997.—Any reference in this Act to any section of the
9 Internal Revenue Code of 1986 amended or added by the

1 Taxpayer Relief Act of 1997 shall be a reference to such
2 section as so amended or added.

3 **SEC. 2. EXCLUSION FROM GROSS INCOME OF EDUCATION**
4 **DISTRIBUTIONS FROM QUALIFIED TUITION**
5 **PROGRAMS; COVERAGE OF PRIVATE PRO-**
6 **GRAMS.**

7 (a) EXCLUSION.—

8 (1) IN GENERAL.—Subparagraph (B) of section
9 529(c)(3) of the Internal Revenue Code of 1986 (re-
10 lating to distributions) is amended to read as fol-
11 lows:

12 “(B) DISTRIBUTIONS FOR QUALIFIED
13 HIGHER EDUCATION EXPENSES.—If a distribu-
14 tee elects the application of this subparagraph
15 for any taxable year—

16 “(i) no amount shall be includible in
17 gross income by reason of a distribution
18 which consists of providing a benefit to the
19 distributee which, if paid for by the dis-
20 tributee, would constitute payment of a
21 qualified higher education expense, and

22 “(ii) the amount which (but for the
23 election) would be includible in gross in-
24 come by reason of any other distribution
25 shall not be so includible in an amount

1 which bears the same ratio to the amount
2 which would be so includible as the amount
3 of the qualified higher education expenses
4 of the distributee bears to the amount of
5 the distribution.”

6 (2) ADDITIONAL TAX ON AMOUNTS NOT USED
7 FOR HIGHER EDUCATION EXPENSES.—Section 529
8 of such Code is amended by adding at the end the
9 following new subsection:

10 “(f) ADDITIONAL TAX FOR DISTRIBUTIONS NOT
11 USED FOR EDUCATIONAL EXPENSES.—

12 “(1) IN GENERAL.—The tax imposed by section
13 530(d)(4) shall apply to payments and distributions
14 from qualified tuition programs in the same manner
15 as such tax applies to education individual retire-
16 ment accounts.

17 “(2) EXCESS CONTRIBUTIONS RETURNED BE-
18 FORE DUE DATE OF RETURN.—Paragraph (1) shall
19 not apply to the distribution to a contributor of any
20 contribution paid during a taxable year to a quali-
21 fied tuition program to the extent that such con-
22 tribution exceeds the limitation in section 4973(e) if
23 such distribution (and the net income with respect
24 to such excess contribution) meets requirements

1 comparable to the requirements of clauses (i) and
 2 (ii) of section 530(d)(4)(C).”

3 (3) COORDINATION WITH EDUCATION CRED-
 4 ITS.—Section 25A(e)(2) of such Code is amended by
 5 inserting “529(c)(3)(B) or” before “530(d)(2)”.

6 (4) EFFECTIVE DATE.—The amendments made
 7 by this subsection shall apply to distributions after
 8 December 31, 1997, for education furnished in aca-
 9 demic periods beginning after such date.

10 (b) ELIGIBLE EDUCATIONAL INSTITUTIONS PER-
 11 MITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.—

12 (1) IN GENERAL.—Paragraph (1) of section
 13 529(b) of such Code (defining qualified State tuition
 14 program) is amended by inserting “or by one or
 15 more eligible educational institutions” after “main-
 16 tained by a State or agency or instrumentality there-
 17 of”.

18 (2) LIMITATION ON CONTRIBUTIONS TO QUALI-
 19 FIED TUITION PROGRAMS NOT MAINTAINED BY A
 20 STATE.—Subsection (b) of section 529 of such Code
 21 is amended by adding at the end the following new
 22 paragraph:

23 “(8) LIMITATION ON CONTRIBUTIONS TO
 24 QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY
 25 A STATE.—In the case of a program not maintained

1 by a State or agency or instrumentality thereof, such
2 program shall not be treated as a qualified tuition
3 program unless it limits the annual contribution to
4 the program on behalf of a designated beneficiary to
5 \$5,000.”

6 (3) TAX ON EXCESS CONTRIBUTIONS.—

7 (A) IN GENERAL.—Subsection (a) of sec-
8 tion 4973 of such Code is amended by striking
9 “or” at the end of paragraph (3), by redesign-
10 ating paragraph (4) as paragraph (5), and by
11 inserting after paragraph (3) the following new
12 paragraph:

13 “(4) a qualified tuition program (as defined in
14 section 529) not maintained by a State or any agen-
15 cy or instrumentality thereof, or”.

16 (B) EXCESS CONTRIBUTIONS DEFINED.—

17 Section 4973(e) of such Code is amended to
18 read as follows:

19 “(e) EXCESS CONTRIBUTIONS TO PRIVATE QUALI-
20 FIED TUITION PROGRAM AND EDUCATION INDIVIDUAL
21 RETIREMENT ACCOUNTS.—For purposes of this section—

22 “(1) IN GENERAL.—In the case of private edu-
23 cation investment accounts maintained for the bene-
24 fit of any 1 beneficiary, the term ‘excess contribu-
25 tions’ means the amount by which the amount con-

1 tributed for the taxable year to such accounts ex-
2 ceeds \$5,000.

3 “(2) PRIVATE EDUCATION INVESTMENT AC-
4 COUNT.—For purposes of paragraph (1), the term
5 ‘private education investment account’ means—

6 “(A) a qualified tuition program (as de-
7 fined in section 529) not maintained by a State
8 or any agency or instrumentality thereof, and

9 “(B) an education individual retirement
10 account (as defined in section 530).

11 “(3) SPECIAL RULES.—For purposes of para-
12 graph (1), the following contributions shall not be
13 taken into account:

14 “(A) Any contribution which is distributed
15 out of the education individual retirement ac-
16 count in a distribution to which section
17 530(d)(4)(C) applies.

18 “(B) Any contribution to a qualified tui-
19 tion program (as so defined) described in sec-
20 tion 530(b)(2)(B) from any such account.

21 “(C) Any rollover contribution.”

22 (4) CONFORMING AMENDMENTS.—

23 (A) Paragraph (2) of section 26(b) of such
24 Code is amended by redesignating subpara-
25 graphs (E) through (Q) as subparagraphs (F)

1 through (R), respectively, and by inserting after
2 subparagraph (D) the following new subpara-
3 graph:

4 “(E) section 529(f) (relating to additional
5 tax on certain distributions from qualified tui-
6 tion programs),”.

7 (B) The text and headings of sections 529
8 and 530 of such Code are amended by striking
9 “qualified State tuition program” each place it
10 appears and inserting “qualified tuition pro-
11 gram”.

12 (C)(i) The section heading of section 529
13 of such Code is amended to read as follows:

14 **“SEC. 529. QUALIFIED TUITION PROGRAMS.”**

15 (ii) The item relating to section 529 of
16 such Code in the table of sections for part VIII
17 of subchapter F of chapter 1 is amended by
18 striking “State”.

19 (5) EFFECTIVE DATE.—The amendments made
20 by this subsection shall take effect on January 1,
21 1998.

22 (c) CHANGE OF QUALIFIED TUITION PROGRAM OR
23 OF DESIGNATED BENEFICIARY.—

24 (1) IN GENERAL.—Clause (i) of section
25 529(c)(3)(C) of such Code is amended by inserting

1 “to another qualified tuition program for the benefit
2 of the designated beneficiary or” after “trans-
3 ferred”.

4 (2) INCLUSION OF SIBLINGS AS MEMBER OF
5 FAMILY.—Paragraph (e)(2) of section 529(e) of such
6 Code is amended by inserting before the period at
7 the end the following: “, except that such term shall
8 include any sibling (whether by the whole or half
9 blood) of the designated beneficiary”.

10 (3) EFFECTIVE DATE.—The amendments made
11 by this subsection shall take effect on January 1,
12 1998.

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