

Calendar No. 205

105TH CONGRESS
1ST Session
S. 1149

A BILL

To amend title 11, United States Code, to provide for increased education funding, and for other purposes.

OCTOBER 9, 1997

Reported with an amendment

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1ST SESSION**S. 1149**

To amend title 11, United States Code, to provide for increased education funding, and for other purposes.

 IN THE SENATE OF THE UNITED STATES

SEPTEMBER 4, 1997

Mr. GRASSLEY (for himself, Mr. DURBIN, Mr. COVERDELL, Mr. SHELBY, and Mr. KYL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

OCTOBER 9, 1997

Reported by Mr. HATCH, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend title 11, United States Code, to provide for increased education funding, and for other purposes.

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 “Investment in Edu-
5 cation Act of 1997”.

1 **SEC. 2. TREATMENT OF CERTAIN LIENS.**

2 (a) TREATMENT OF CERTAIN LIENS.—Section 724
3 of title 11, United States Code, is amended—

4 (1) in subsection (b), in the matter preceding
5 paragraph (1), by inserting “(other than to the ex-
6 tent that there is properly perfected unavoidable tax
7 lien arising in connection with an ad valorem tax on
8 real or personal property of the estate)” after
9 “under this title”;

10 (2) in subsection (b)(2), after “507(a)(1)” and
11 before the comma following thereafter insert “(ex-
12 cept that such expenses, other than claims for
13 wages, salaries or commissions which arise after the
14 filing of a petition, shall be limited to expenses in-
15 curred under Chapter 7 of this title and shall not in-
16 clude expenses incurred under Chapter 11 of this
17 title)”;

18 (3) by adding at the end the following:

19 “(e) Before subordinating a tax lien on real or per-
20 sonal property of the estate which has arisen by virtue
21 of state law, the trustee shall—

22 “(1) exhaust the unencumbered assets of the
23 estate; and

24 “(2) in a manner consistent with section 506(c)
25 of this title, recover from property securing an al-
26 lowed secured claim the reasonable, necessary costs

1 and expenses of preserving or disposing of that prop-
2 erty.

3 “(f) Notwithstanding the exclusion of ad valorem tax
4 liens set forth in this Section, claims for wages, salaries
5 and commissions entitled to priority under Section
6 507(a)(3) or claims for contributions to an employee bene-
7 fit plan entitled to priority under 507(a)(4) may be paid
8 from property of the estate which secures a tax lien, or
9 the proceeds of such property subject to the requirements
10 of Subsection 724(e).”.

11 (b) DETERMINATION OF TAX LIABILITY.—Section
12 505(a)(2) of title 11, United States Code, is amended—

13 (1) by striking “or” at the end of subparagraph
14 (A);

15 (2) by striking the period at the end of sub-
16 paragraph (B) and inserting “; or”; and

17 (3) by adding at the end the following:

18 “(C) the amount or legality of any amount
19 arising in connection with an ad valorem tax
20 real or personal property of the estate if the ap-
21 plicable period for contesting or redetermining
22 that amount under any law (other than a bank-
23 ruptey law) has expired.”.

1 **SEC. 3. ENFORCEMENT OF CHILD AND SPOUSAL SUPPORT.**

2 Section 522(c)(1) of title 11, United States Code, is
 3 amended by inserting “provided that, notwithstanding any
 4 federal or state law relating to the enforcement of liens
 5 or judgments on exempted property, exempt property
 6 shall be liable for debts of a kind specified in Section
 7 523(a)(5) of this title,” at the end of the subsection.

8 **SECTION 1. SHORT TITLE.**

9 *This Act may be cited as the “Investment in Education*
 10 *Act of 1997”.*

11 **SEC. 2. TREATMENT OF CERTAIN LIENS.**

12 *(a) TREATMENT OF CERTAIN LIENS.—Section 724 of*
 13 *title 11, United States Code, is amended—*

14 *(1) in subsection (b), in the matter preceding*
 15 *paragraph (1), by inserting “(other than to the extent*
 16 *that there is a properly perfected unavoidable tax lien*
 17 *arising in connection with an ad valorem tax on real*
 18 *or personal property of the estate)” after “under this*
 19 *title”;*

20 *(2) in subsection (b)(2), after “507(a)(1)”, insert*
 21 *“(except that such expenses, other than claims for*
 22 *wages, salaries, or commissions which arise after the*
 23 *filing of a petition, shall be limited to expenses in-*
 24 *curring under chapter 7 of this title and shall not in-*
 25 *clude expenses incurred under chapter 11 of this*
 26 *title)”;* and

1 (3) *by adding at the end the following:*

2 “(e) *Before subordinating a tax lien on real or per-*
3 *sonal property of the estate, the trustee shall—*

4 “(1) *exhaust the unencumbered assets of the es-*
5 *tate; and*

6 “(2) *in a manner consistent with section 506(c)*
7 *of this title, recover from property securing an al-*
8 *lowed secured claim the reasonable, necessary costs*
9 *and expenses of preserving or disposing of that prop-*
10 *erty.*

11 “(f) *Notwithstanding the exclusion of ad valorem tax*
12 *liens set forth in this section and subject to the requirements*
13 *of subsection (e)—*

14 “(1) *claims for wages, salaries, and commissions*
15 *that are entitled to priority under section 507(a)(3)*
16 *of this title; or*

17 “(2) *claims for contributions to an employee ben-*
18 *efit plan entitled to priority under section 507(a)(4)*
19 *of this title,*

20 *may be paid from property of the estate which secures a*
21 *tax lien, or the proceeds of such property.”.*

22 (b) *DETERMINATION OF TAX LIABILITY.—Section*
23 *505(a)(2) of title 11, United States Code, is amended—*

24 (1) *in subparagraph (A), by striking “or” at the*
25 *end;*

1 (2) *in subparagraph (B), by striking the period*
2 *at the end and inserting “; or”; and*

3 (3) *by adding at the end the following:*

4 “(C) *the amount or legality of any amount arising*
5 *in connection with an ad valorem tax on real or*
6 *personal property of the estate, if the applicable pe-*
7 *riod for contesting or redetermining that amount*
8 *under any law (other than a bankruptcy law) has ex-*
9 *pired.”.*

10 **SEC. 3. ENFORCEMENT OF CHILD AND SPOUSAL SUPPORT.**

11 *Section 522(c)(1) of title 11, United States Code, is*
12 *amended by inserting “, except that, notwithstanding any*
13 *other Federal law or State law relating to exempted prop-*
14 *erty, exempt property shall be liable for debts of a kind spec-*
15 *ified in section 523(a) (1) or (5) of this title” before the*
16 *semicolon at the end of the paragraph.*