

107TH CONGRESS  
1ST SESSION

# S. 687

To amend the Internal Revenue Code of 1986 to make higher education more affordable by providing a tax deduction for higher education expenses, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 4, 2001

Mr. TORRICELLI (for himself and Mr. CORZINE) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to make higher education more affordable by providing a tax deduction for higher education expenses, 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 “Higher Education Af-  
5 fordability and Fairness Act”.

6 **SEC. 2. DEDUCTION FOR HIGHER EDUCATION EXPENSES.**

7 (a) DEDUCTION ALLOWED.—Part VII of subchapter  
8 B of chapter 1 of the Internal Revenue Code of 1986 (re-

1 lating to additional itemized deductions for individuals) is  
2 amended by redesignating section 222 as section 223 and  
3 by inserting after section 221 the following:

4 **“SEC. 222. HIGHER EDUCATION EXPENSES.**

5       “(a) ALLOWANCE OF DEDUCTION.—In the case of an  
6 individual, there shall be allowed as a deduction an  
7 amount equal to the qualified tuition and related expenses  
8 paid by the taxpayer during the taxable year.

9       “(b) LIMITATIONS.—

10           “(1) LIMITATION FOR FIRST 2 YEARS OF POST-  
11 SECONDARY EDUCATION.—For any taxable year pre-  
12 ceding a taxable year described in paragraph (2),  
13 the amount of qualified tuition and related expenses  
14 which may be taken into account under subsection  
15 (a) shall not exceed—

16           “(A) except as provided in subparagraph  
17 (B), the excess (if any) of—

18           “(i) the lesser of—

19                   “(I) \$10,000 for each eligible  
20 student, or

21                   “(II) \$15,000, over

22           “(ii) the amount of such expenses  
23 which are taken into account in deter-  
24 mining the credit allowable to the taxpayer  
25 or any other person under section

1           25A(a)(1) with respect to such expenses,  
2           and

3           “(B) in the case of a taxpayer with respect  
4           to which the credit under section 25A(a)(1) is  
5           reduced to zero by reason of section 25A(d)(1),  
6           \$5,000.

7           “(2) LIMITATION FOR SECOND 2 YEARS OF  
8           POSTSECONDARY EDUCATION.—For any taxable year  
9           if an eligible student has completed (before the be-  
10          ginning of such taxable year) the first 2 years of  
11          postsecondary education at an eligible educational  
12          institution, the amount of qualified tuition and re-  
13          lated expenses which may be taken into account  
14          under subsection (a) shall not exceed—

15           “(A) except as provided in subparagraph  
16           (B) or (C), \$10,000,

17           “(B) in the case of a taxpayer with respect  
18           to which a credit under section 25A(a)(1) would  
19           be reduced to zero by reason of section  
20           25A(d)(1), \$5,000, and

21           “(C) in the case of taxpayer with respect  
22           to whom the credit under section 25A(a)(2) is  
23           allowed for such taxable year, zero.

24           “(3) DEDUCTION ALLOWED ONLY FOR 4 TAX-  
25           ABLE YEARS FOR EACH ELIGIBLE STUDENT.—A de-

1       duction may not be allowed under subsection (a)  
2       with respect to the qualified tuition and related ex-  
3       penses of an eligible student for any taxable year if  
4       such a deduction was allowable with respect to such  
5       expenses for such student for any 4 prior taxable  
6       years.

7       “(c) QUALIFIED TUITION AND RELATED EX-  
8 PENSES.—For purposes of this section, the term ‘qualified  
9 tuition and related expenses’ has the meaning given such  
10 term by section 25A(f)(1) (determined with regard to sec-  
11 tion 25A(c)(2)(B)).

12       “(d) ELIGIBLE STUDENT.—For purposes of this sec-  
13 tion, the term ‘eligible student’ has the meaning given  
14 such term by section 25A(b)(3).

15       “(e) SPECIAL RULES.—For purposes of this  
16 section—

17               “(1) IDENTIFICATION REQUIREMENT.—No de-  
18 duction shall be allowed under subsection (a) to a  
19 taxpayer with respect to an eligible student unless  
20 the taxpayer includes the name, age, and taxpayer  
21 identification number of such eligible student on the  
22 return of tax for the taxable year.

23               “(2) NO DOUBLE BENEFIT.—

24                       “(A) COORDINATION WITH EXCLUSIONS.—

25                       The amount of qualified tuition and related ex-

1           penses otherwise taken into account under sub-  
2           section (a) with respect to an eligible student  
3           shall be reduced (before the application of sub-  
4           section (b)) by the amount of such expenses  
5           which are taken into account in determining the  
6           exclusion under section 135 or 530(d)(2) for  
7           the taxable year.

8           “(B) DEPENDENTS.—No deduction shall  
9           be allowed under subsection (a) to any indi-  
10          vidual with respect to whom a deduction under  
11          section 151 is allowable to another taxpayer for  
12          a taxable year beginning in the calendar year in  
13          which such individual’s taxable year begins.

14          “(3) LIMITATION ON TAXABLE YEAR OF DE-  
15          DUCTION.—

16          “(A) IN GENERAL.—A deduction shall be  
17          allowed under subsection (a) for qualified tui-  
18          tion and related expenses for any taxable year  
19          only to the extent such expenses are in connec-  
20          tion with enrollment at an institution of higher  
21          education during the taxable year.

22          “(B) CERTAIN PREPAYMENTS ALLOWED.—  
23          Subparagraph (A) shall not apply to qualified  
24          tuition and related expenses paid during a tax-  
25          able year if such expenses are in connection

1 with an academic term beginning during such  
2 taxable year or during the first 3 months of the  
3 next taxable year.

4 “(4) ADJUSTMENT FOR CERTAIN SCHOLAR-  
5 SHIPS AND VETERANS BENEFITS.—The amount of  
6 qualified tuition and related expenses otherwise  
7 taken into account under subsection (a) with respect  
8 to the education of an individual shall be reduced  
9 (before the application of subsection (b)) by the sum  
10 of the amounts received with respect to such indi-  
11 vidual for the taxable year as—

12 “(A) a qualified scholarship which under  
13 section 117 is not includable in gross income,

14 “(B) an educational assistance allowance  
15 under chapter 30, 31, 32, 34, or 35 of title 38,  
16 United States Code, or

17 “(C) a payment (other than a gift, be-  
18 quest, devise, or inheritance within the meaning  
19 of section 102(a)) for educational expenses, or  
20 attributable to enrollment at an eligible edu-  
21 cational institution, which is exempt from in-  
22 come taxation by any law of the United States.

23 “(5) NO DEDUCTION FOR MARRIED INDIVID-  
24 UALS FILING SEPARATE RETURNS.—If the taxpayer  
25 is a married individual (within the meaning of sec-

1       tion 7703), this section shall apply only if the tax-  
2       payer and the taxpayer's spouse file a joint return  
3       for the taxable year.

4               “(6) NONRESIDENT ALIENS.—If the taxpayer is  
5       a nonresident alien individual for any portion of the  
6       taxable year, this section shall apply only if such in-  
7       dividual is treated as a resident alien of the United  
8       States for purposes of this chapter by reason of an  
9       election under subsection (g) or (h) of section 6013.

10              “(7) REGULATIONS.—The Secretary may pre-  
11       scribe such regulations as may be necessary or ap-  
12       propriate to carry out this section, including regula-  
13       tions requiring recordkeeping and information re-  
14       porting.”.

15       (b) DEDUCTION ALLOWED IN COMPUTING AD-  
16       JUSTED GROSS INCOME.—Section 62(a) of the Internal  
17       Revenue Code of 1986 is amended by inserting after para-  
18       graph (17) the following:

19              “(18) HIGHER EDUCATION EXPENSES.—The  
20       deduction allowed by section 222.”.

21       (c) DETERMINATION OF ADJUSTED GROSS INCOME  
22       WITH RESPECT TO OTHER BENEFITS.—

23              (1) Section 21(a)(2) of the Internal Revenue  
24       Code of 1986 is amended by inserting “(determined

1 without regard to section 222)” after “adjusted  
2 gross income”.

3 (2) Section 22(d) of such Code is amended—

4 (A) by inserting “(determined without re-  
5 gard to section 222)” after “adjusted gross in-  
6 come” the first place it appears, and

7 (B) by inserting “(as so determined)” after  
8 “adjusted gross income” the second place it ap-  
9 pears.

10 (3) Section 23(b)(2)(B) of such Code is amend-  
11 ed by inserting “222,” before “911”.

12 (4) Section 24(b)(1) of such Code is amended  
13 by inserting “222,” before “911”.

14 (5) Section 86(b)(2)(A) of such Code is amend-  
15 ed by inserting “222,” before “911”.

16 (6) Section 137(b)(3)(A) of such Code is  
17 amended by inserting “222,” before “911”.

18 (7) Section 151(d)(3) of such Code is  
19 amended—

20 (A) by inserting “(determined without re-  
21 gard to section 222)” after “adjusted gross in-  
22 come” in subparagraph (A), and

23 (B) by inserting “(as so determined)” after  
24 “adjusted gross income” in subparagraph (B).

1           (8) Section 165(h)(2)(A)(ii) of such Code is  
2 amended by inserting “(determined without regard  
3 to section 222)” after “adjusted gross income”.

4           (9) Section 213(a) of such Code is amended by  
5 inserting “(determined without regard to section  
6 222)” after “adjusted gross income”.

7           (10) Section 219(g)(3)(A)(ii) of such Code is  
8 amended by inserting “222,” after “221,”.

9           (11) Section 221(b)(2)(C)(i) of such Code is  
10 amended by inserting “222,” before “911”.

11           (12) Section 403(b)(3)(D) of such Code is  
12 amended—

13           (A) by inserting “(determined without re-  
14 gard to section 222)” after “adjusted gross in-  
15 come” in clause (ii), and

16           (B) by inserting “(as so determined)” after  
17 “adjusted gross income” in the matter following  
18 clause (ii).

19           (13) Section 469(i)(3)(E)(iii) of such Code is  
20 amended by striking “and 221” and inserting “,  
21 221, and 222”.

22           (14) Section 1400C(b)(2) of such Code is  
23 amended by inserting “222,” before “911”.

24           (d) CONFORMING AMENDMENTS.—The table of sec-  
25 tions for part VII of subchapter B of chapter 1 of the

1 Internal Revenue Code of 1986 is amended by striking the  
2 item relating to section 222 and inserting the following:

“Sec. 222. Higher education expenses.  
“Sec. 223. Cross reference.”.

3 (e) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to expenses paid after December  
5 31, 2001 (in taxable years ending after such date), for  
6 education furnished in academic periods beginning after  
7 such date.

8 **SEC. 3. EDUCATION TAX CREDIT FAIRNESS.**

9 (a) **IN GENERAL.**—Section 25A(c)(1) of the Internal  
10 Revenue Code of 1986 (relating to lifetime learning credit)  
11 is amended by striking “2003” and inserting “2002”.

12 (b) **INCREASE IN AGI LIMITS.**—

13 (1) **IN GENERAL.**—Subsection (d) of section  
14 25A of the Internal Revenue Code of 1986 is  
15 amended to read as follows:

16 “(d) **LIMITATION BASED ON MODIFIED ADJUSTED**  
17 **GROSS INCOME.**—

18 “(1) **HOPE CREDIT.**—

19 “(A) **IN GENERAL.**—The amount which  
20 would (but for this subsection) be taken into ac-  
21 count under subsection (a)(1) shall be reduced  
22 (but not below zero) by the amount determined  
23 under subparagraph (B).

1           “(B) AMOUNT OF REDUCTION.—The  
 2 amount determined under this subparagraph  
 3 equals the amount which bears the same ratio  
 4 to the amount which would be so taken into ac-  
 5 count as—

6                   “(i) the excess of—

7                           “(I) the taxpayer’s modified ad-  
 8 justed gross income for such taxable  
 9 year, over

10                           “(II) \$50,000 (\$100,000 in the  
 11 case of a joint return), bears to

12                           “(ii) \$10,000 (\$20,000 in the case of  
 13 a joint return).

14           “(2) LIFETIME LEARNING CREDIT.—

15                   “(A) IN GENERAL.—The amount which  
 16 would (but for this subsection) be taken into ac-  
 17 count under subsection (a)(2) shall be reduced  
 18 (but not below zero) by the amount determined  
 19 under subparagraph (B).

20           “(B) AMOUNT OF REDUCTION.—The  
 21 amount determined under this subparagraph  
 22 equals the amount which bears the same ratio  
 23 to the amount which would be so taken into ac-  
 24 count as—

25                   “(i) the excess of—

1                   “(I) the taxpayer’s modified ad-  
2                   justed gross income for such taxable  
3                   year, over

4                   “(II) \$40,000 (\$80,000 in the  
5                   case of a joint return), bears to

6                   “(ii) \$10,000 (\$20,000 in the case of  
7                   a joint return).

8                   “(3) MODIFIED ADJUSTED GROSS INCOME.—  
9                   For purposes of this subsection, the term ‘modified  
10                  adjusted gross income’ means the adjusted gross in-  
11                  come of the taxpayer for the taxable year increased  
12                  by any amount excluded from gross income under  
13                  section 911, 931, or 933.”.

14                  (2) CONFORMING AMENDMENT.—Paragraph (2)  
15                  of section 25A(h) of such Code is amended to read  
16                  as follows:

17                  “(2) INCOME LIMITS.—

18                  “(A) HOPE CREDIT.—In the case of a tax-  
19                  able year beginning after 2002, the \$50,000  
20                  and \$100,000 amounts in subsection  
21                  (d)(1)(B)(i)(II) shall be increased by an amount  
22                  equal to—

23                  “(i) such dollar amount, multiplied by

24                  “(ii) the cost-of-living adjustment de-  
25                  termined under section 1(f)(3) for the cal-

1           endar year in which the taxable year be-  
 2           gins, determined by substituting ‘calendar  
 3           year 2001’ for ‘calendar year 1992’ in sub-  
 4           paragraph (B) thereof.

5           “(B) LIFETIME LEARNING CREDIT.—In  
 6           the case of a taxable year beginning after 2001,  
 7           the \$40,000 and \$80,000 amounts in sub-  
 8           section (d)(2)(B)(i)(II) shall be increased by an  
 9           amount equal to—

10                   “(i) such dollar amount, multiplied by

11                   “(ii) the cost-of-living adjustment de-  
 12                   termined under section 1(f)(3) for the cal-  
 13                   endar year in which the taxable year be-  
 14                   gins, determined by substituting ‘calendar  
 15                   year 2000’ for ‘calendar year 1992’ in sub-  
 16                   paragraph (B) thereof.

17           “(C) ROUNDING.—If any amount as ad-  
 18           justed under subparagraph (A) or (B) is not a  
 19           multiple of \$1,000, such amount shall be  
 20           rounded to the next lowest multiple of \$1,000.”.

21           (c) COORDINATION WITH OTHER HIGHER EDU-  
 22           CATION BENEFITS.—

23                   (1) Subsection (e) of section 25A of the Inter-  
 24                   nal Revenue Code of 1986 is amended to read as fol-  
 25                   lows:

1       “(e) ELECTION NOT TO HAVE SECTION APPLY.—A  
2 taxpayer may elect not to have this section apply with re-  
3 spect to the qualified tuition and related expenses of an  
4 individual for any taxable year.”.

5           (2) Section 25A (g) of such Code is amended  
6 by striking paragraph (5) and by redesignating  
7 paragraphs (6) and (7) as paragraphs (5) and (6),  
8 respectively.

9           (3) Section 135(d)(2)(A) of such Code is  
10 amended by striking “allowable” and inserting “al-  
11 lowed”.

12       (d) EFFECTIVE DATE.—The amendments made by  
13 this section shall apply to expenses paid after December  
14 31, 2001 (in taxable years ending after such date), for  
15 education furnished in academic periods beginning after  
16 such date.

17 **SEC. 4. RELATIONSHIP BETWEEN TUITION AND FINANCIAL**  
18 **AID.**

19       (a) STUDY.—The Comptroller General of the United  
20 States shall conduct an annual study to examine whether  
21 the Federal income tax incentives to provide education as-  
22 sistance affect higher education tuition rates in order to  
23 identify if institutions of higher education are absorbing  
24 the intended savings by raising tuition rates.

1           (b) REPORT.—The Comptroller General of the  
2 United States shall report the results of the study required  
3 under subsection (a) to Congress on an annual basis.

4 **SEC. 5. SENSE OF THE SENATE REGARDING PELL GRANTS.**

5           It is the sense of the Senate that the maximum Pell  
6 Grant should be increased to \$4,700 to pay  
7 approximately—

8           (1) 20 percent of the tuition, fees, room and  
9 board, and other expenses of the average college, or

10           (2) the tuition and fees of the average public  
11 college.

○