

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.

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## 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

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## 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

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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:

<b>“If the account holder’s age is:</b>	<b>The applicable percentage is:</b>
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

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

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

“(ii) the amount of the reduction described in section 135(d)(1) (other than subparagraph (E)).

“(B) STATE TUITION PLANS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified State tuition program (as defined in section 529(b)).

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

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

“(5) TIME WHEN CONTRIBUTIONS DEEMED 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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