

105TH CONGRESS  
1ST SESSION

# H. R. 1810

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

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 1997

Ms. GRANGER (for herself, Ms. DUNN, Mr. PITTS, Mr. DELAY, Mr. SAM JOHNSON of Texas, Mr. WELLER, Mr. RIGGS, Mr. WATTS of Oklahoma, Mr. SHIMKUS, Mr. PAUL, Mr. COMBEST, Mr. THORNBERRY, Mr. SESSIONS, Mr. BRADY, and Mrs. MYRICK) 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 provide  
tax incentives for higher 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; AMENDMENT OF 1986 CODE.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Higher Education and Learning Promotion Act”.

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. EDUCATION INVESTMENT ACCOUNTS.**

4 (a) IN GENERAL.—Part VIII of subchapter F of  
 5 chapter 1 (relating to qualified State tuition programs)  
 6 is amended by adding at the end the following new section:

7 **“SEC. 530. EDUCATION INVESTMENT ACCOUNTS.**

8 “(a) GENERAL RULE.—An education investment ac-  
 9 count (hereafter in this section referred to as an ‘edu-  
 10 cation investment account’) shall be exempt from taxation  
 11 under this subtitle. Notwithstanding the preceding sen-  
 12 tence, the education investment account shall be subject  
 13 to the taxes imposed by section 511 (relating to imposition  
 14 of tax on unrelated business income of charitable organiza-  
 15 tions).

16 “(b) LIMITATIONS ON ACCOUNTS.—

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

21 “(2) SPECIAL RULE WHERE MORE THAN 1 AC-  
 22 COUNT.—If, at any time during a calendar year, 2  
 23 or more education investment accounts are main-  
 24 tained for the benefit of an individual, only the ac-  
 25 count first established shall be treated as an edu-

1 cation investment account for purposes of this sec-  
2 tion. This paragraph shall not apply to the extent  
3 more than 1 account exists solely by reason of a roll-  
4 over contribution.

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

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

14 “(A) No contribution will be accepted—

15 “(i) unless it is in cash or in securities  
16 for which (as of the date of the contribu-  
17 tion) market quotations are readily avail-  
18 able on an established securities market,

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

23 “(iii) after the date on which the ac-  
24 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 (other than  
9           contracts the beneficiary of which is the trust  
10          and the face amount of which does not exceed  
11          the amount by which the maximum amount  
12          which can be contributed to the education in-  
13          vestment account exceeds the sum of the  
14          amounts contributed to the account for all tax-  
15          able years).

16          “(D) The assets of the trust shall not be  
17          commingled with other property except in a  
18          common trust fund or common investment  
19          fund.

20          “(E) Any balance in the education invest-  
21          ment account on the day after the date on  
22          which the individual for whose benefit the trust  
23          is established attains age 30 (or, if earlier, the  
24          date on which such individual dies) shall be dis-  
25          tributed within 30 days of such date to the ac-

1 count holder (or in the case of death, the bene-  
2 ficiary).

3 “(2) TIME WHEN CONTRIBUTIONS DEEMED  
4 MADE.—A taxpayer shall be deemed to have made a  
5 contribution on the last day of the preceding taxable  
6 year if the contribution is made on account of such  
7 taxable year and is made not later than the time  
8 prescribed by law for filing the return for such tax-  
9 able year (including extensions thereof).

10 “(3) QUALIFIED HIGHER EDUCATION EX-  
11 PENSES.—

12 “(A) IN GENERAL.—The term ‘qualified  
13 higher education expenses’ has the same mean-  
14 ing given such term by section 529(e)(3), ex-  
15 cept that such expenses shall be reduced by any  
16 amount described in section 135(d)(1) (relating  
17 to certain scholarships and veterans benefits).

18 “(B) STATE TUITION PLANS.—Such term  
19 shall include amounts paid or incurred to pur-  
20 chase tuition credits or certificates, or to make  
21 contributions to an account, under a qualified  
22 State tuition program (as defined in section  
23 529(b)).

1           “(4) ELIGIBLE EDUCATIONAL INSTITUTION.—

2           The term ‘eligible educational institution’ has the  
3           meaning given such term by section 135(c)(3).

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

7           “(d) TAX TREATMENT OF DISTRIBUTIONS.—

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

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

23          “(3) SPECIAL RULE FOR APPLYING SECTION  
24          2503.—If any payment or distribution from an edu-  
25          cation investment account is used exclusively for the

1 payment to an eligible educational institution of the  
2 qualified higher education expenses of the account  
3 holder, such payment shall be treated as a qualified  
4 transfer for purposes of section 2503(e).

5 “(4) ADDITIONAL TAX FOR DISTRIBUTIONS NOT  
6 USED FOR EDUCATIONAL EXPENSES.—

7 “(A) IN GENERAL.—The tax imposed by  
8 this chapter for any taxable year on any tax-  
9 payer who receives a payment or distribution  
10 from an education investment account which is  
11 includible in gross income under paragraph (1)  
12 shall be increased by 10 percent of the amount  
13 which is so includible.

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

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

19 “(ii) made on account of a scholarship  
20 (or allowance or payment described in sec-  
21 tion 135(d)(1) (B) or (C)) received by the  
22 account holder to the extent the amount of  
23 the payment or distribution does exceed  
24 the amount of the scholarship, allowance,  
25 or payment.

“(C) EXCESS CONTRIBUTIONS RETURNED BEFORE DUE DATE OF RETURN.—Subparagraph (A) shall not apply to the distribution to a contributor of any contribution paid during a taxable year to an education investment account to the extent that such contribution, when added to previous contributions to the account during the taxable year, exceeds \$1,000 if—

“(i) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such contributor’s return for such taxable year, and

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

Any net income described in clause (ii) shall be included in the gross income of the contributor for the taxable year in which such excess contribution was made.

“(5) ROLLOVER CONTRIBUTIONS.—Paragraph (1) shall not apply to any amount paid or distributed from an education investment account to the extent that the amount received is paid into another education investment account for the benefit of the 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 “(e) TAX TREATMENT OF ACCOUNTS.—Rules similar  
10 to the rules of paragraphs (2) and (4) of section 408(e)  
11 shall apply to any education investment account, and any  
12 amount treated as distributed under such rules shall be  
13 treated as not used to pay qualified higher education ex-  
14 penses.

15 “(f) COMMUNITY PROPERTY LAWS.—This section  
16 shall be applied without regard to any community property  
17 laws.

18 “(g) CUSTODIAL ACCOUNTS.—For purposes of this  
19 section, a custodial account shall be treated as a trust if  
20 the assets of such account are held by a bank (as defined  
21 in section 408(n)) or another person who demonstrates,  
22 to the satisfaction of the Secretary, that the manner in  
23 which he will administer the account will be consistent  
24 with the requirements of this section, and if the custodial  
25 account would, except for the fact that it is not a trust,

1 constitute an account described in subsection (b)(1). For  
 2 purposes of this title, in the case of a custodial account  
 3 treated as a trust by reason of the preceding sentence,  
 4 the custodian of such account shall be treated as the trust-  
 5 ee thereof.

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

15 (b) TAX ON PROHIBITED TRANSACTIONS.—Section  
 16 4975 (relating to prohibited transactions) is amended—

17 (1) by adding at the end of subsection (c) the  
 18 following new paragraph:

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

1 with respect to such transaction, the account ceases  
 2 to be an education investment account by reason of  
 3 the application of section 530 to such account.”; and

4 (2) in subsection (e)(1), by striking “or” at the  
 5 end of subparagraph (D), by redesignating subpara-  
 6 graph (E) as subparagraph (F), and by inserting  
 7 after subparagraph (D) the following new subpara-  
 8 graph:

9 “(E) a education investment account de-  
 10 scribed in section 530, or”.

11 (c) FAILURE TO PROVIDE REPORTS ON EDUCATION  
 12 INVESTMENT ACCOUNTS.—Section 6693 (relating to fail-  
 13 ure to provide reports on individual retirement accounts  
 14 or annuities) is amended—

15 (1) by inserting “**OR ON EDUCATION IN-**  
 16 **VESTMENT ACCOUNTS**” after “**ANNUITIES**” in  
 17 the heading of such section, and

18 (2) in subsection (a)(2), by striking “and” at  
 19 the end of subparagraph (A), by striking the period  
 20 at the end of subparagraph (B) and inserting “,  
 21 and”, and by adding at the end the following new  
 22 subparagraph:

23 “(C) section 530(h) (relating to education  
 24 investment accounts).”

1 (d) COORDINATION WITH SAVINGS BOND EXCLU-  
 2 SION.—Section 135(d)(1) is amended by striking “or” at  
 3 the end of subparagraph (C), by striking the period at the  
 4 end of subparagraph (D) and inserting “, or”, and by in-  
 5 serting at the end the following new subparagraph:

6 “(E) a payment or distribution from an  
 7 education investment account (as defined in  
 8 section 530).”

9 (e) CLERICAL AMENDMENTS.—

10 (1) The table of sections for part VIII of sub-  
 11 chapter F of chapter 1 is amended by adding at the  
 12 end the following new item:

“Sec. 530. Education investment accounts.”

13 (2)(A) The heading for part VIII of subchapter  
 14 F of chapter 1 is amended to read as follows:

15 **“PART VIII—HIGHER EDUCATION SAVINGS**  
 16 **ENTITIES”.**

17 (B) The table of parts for subchapter F of  
 18 chapter 1 is amended by striking the item relating  
 19 to part VIII and inserting:

“Part VIII. Higher education savings entities.”

20 (3) The table of sections for subchapter B of  
 21 chapter 68 is amended by striking the item relating  
 22 to section 6693 and inserting the following new  
 23 item:

“Sec. 6693. Failure to provide reports on individual retirement accounts or annuities or on education investment accounts.”

1 (f) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 1996.

4 **SEC. 3. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE**  
5 **PROGRAMS.**

6 (a) PERMANENT EXTENSION.—Section 127 of the  
7 Internal Revenue Code of 1986 (relating to exclusion for  
8 educational assistance programs) is amended by striking  
9 subsection (d) and by redesignating subsection (e) as sub-  
10 section (d).

11 (b) EFFECTIVE DATES.—The amendments made by  
12 subsection (a) shall apply to taxable years beginning after  
13 December 31, 1996.

14 **SEC. 4. MODIFICATIONS OF TAX TREATMENT OF QUALI-**  
15 **FIED STATE TUITION PROGRAMS.**

16 (a) EXCLUSION OF DISTRIBUTIONS USED FOR EDU-  
17 CATIONAL PURPOSES.—Subparagraph (B) of section  
18 529(c)(3) is amended to read as follows:

19 “(B) DISTRIBUTIONS FOR QUALIFIED  
20 HIGHER EDUCATION EXPENSES.—Subpara-  
21 graph (A) shall not apply to any distribution to  
22 the extent—

1 “(i) the distribution is used exclusively  
 2 to pay qualified higher education expenses  
 3 of the distributee, or

4 “(ii) the distribution consists of pro-  
 5 viding a benefit to the distributee which, if  
 6 paid for by the distributee, would con-  
 7 stitute payment of a qualified higher edu-  
 8 cation expense.”

9 (b) QUALIFIED HIGHER EDUCATION EXPENSES TO  
 10 INCLUDE ROOM AND BOARD.—Section 529(e)(3) is  
 11 amended to read as follows:

12 “(3) QUALIFIED HIGHER EDUCATION EX-  
 13 PENSES.—The term ‘qualified higher education ex-  
 14 penses’ means the cost of attendance (within the  
 15 meaning of section 472 of the Higher Education Act  
 16 of 1965 (20 U.S.C. 1087l), as in effect on the date  
 17 of the enactment of the Higher Education Learning  
 18 and Promotion Act) of a designated beneficiary at  
 19 an eligible educational institution (as defined in sec-  
 20 tion 135(c)(3)).”

21 (c) EFFECTIVE DATE.—The amendments made by  
 22 this section shall apply to taxable years beginning after  
 23 December 31, 1996.

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