

105TH CONGRESS
1ST SESSION

S. 1116

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

IN THE SENATE OF THE UNITED STATES

JULY 31, 1997

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

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; AMENDMENT TO 1986 CODE; CO-**
4 **ORDINATION WITH TAXPAYER RELIEF ACT**
5 **OF 1997.**

6 (a) SHORT TITLE.—This Act may be cited as the
7 “Affordable Education Act”.

8 (b) AMENDMENT OF 1986 CODE.—Except as other-
9 wise expressly provided, whenever in this Act an amend-
10 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
 2 shall be considered to be made to a section or other provi-
 3 sion of the Internal Revenue Code of 1986.

4 (c) COORDINATION WITH TAXPAYER RELIEF ACT OF
 5 1997.—Any reference in this Act to any section of the
 6 Internal Revenue Code of 1986 amended or added by the
 7 Taxpayer Relief Act of 1997 shall be a reference to such
 8 section as so amended or added.

9 **SEC. 2. EXCLUSION FROM GROSS INCOME OF EDUCATION**
 10 **DISTRIBUTIONS FROM QUALIFIED TUITION**
 11 **PROGRAMS; COVERAGE OF PRIVATE PRO-**
 12 **GRAMS.**

13 (a) EXCLUSION.—

14 (1) IN GENERAL.—Subparagraph (B) of section
 15 529(c)(3) (relating to distributions) is amended to
 16 read as follows:

17 “(B) DISTRIBUTIONS FOR QUALIFIED
 18 HIGHER EDUCATION EXPENSES.—If a distribu-
 19 tee elects the application of this subparagraph
 20 for any taxable year—

21 “(i) no amount shall be includible in
 22 gross income by reason of a distribution
 23 which consists of providing a benefit to the
 24 distributee which, if paid for by the dis-

1 tributee, would constitute payment of a
2 qualified higher education expense, and

3 “(ii) the amount which (but for the
4 election) would be includible in gross in-
5 come by reason of any other distribution
6 shall not be so includible in an amount
7 which bears the same ratio to the amount
8 which would be so includible as the amount
9 of the qualified higher education expenses
10 of the distributee bears to the amount of
11 the distribution.”.

12 (2) ADDITIONAL TAX ON AMOUNTS NOT USED
13 FOR HIGHER EDUCATION EXPENSES.—Section 529
14 is amended by adding at the end the following new
15 subsection:

16 “(f) ADDITIONAL TAX FOR DISTRIBUTIONS NOT
17 USED FOR EDUCATIONAL EXPENSES.—

18 “(1) IN GENERAL.—The tax imposed by section
19 530(d)(4) shall apply to payments and distributions
20 from qualified tuition programs in the same manner
21 as such tax applies to education individual retire-
22 ment accounts except that section 529(f) shall be
23 applied by reference to qualified higher education ex-
24 penses.

1 “(2) EXCESS CONTRIBUTIONS RETURNED BE-
 2 FORE DUE DATE OF RETURN.—Subparagraph (A)
 3 shall not apply to the distribution to a contributor
 4 of any contribution paid during a taxable year to a
 5 qualified tuition program to the extent that such
 6 contribution exceeds the limitation in section
 7 4973(e) if such distribution (and the net income
 8 with respect to such excess contribution) meet re-
 9 quirements comparable to the requirements of sec-
 10 tion 530(d)(4)(C).”

11 (3) COORDINATION WITH EDUCATION CRED-
 12 ITS.—Section 25A(e)(2) is amended by inserting
 13 “529(c)(3)(B) or” before “530(d)(2)”.

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

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

20 (1) IN GENERAL.—Paragraph (1) of section
 21 529(b) (defining qualified State tuition program) is
 22 amended by inserting “or by one or more eligible
 23 educational institutions” after “maintained by a
 24 State or agency or instrumentality thereof”.

1 (2) LIMITATION ON CONTRIBUTIONS TO QUALI-
 2 FIED TUITION PROGRAMS NOT MAINTAINED BY A
 3 STATE.—Subsection (b) of section 529 is amended
 4 by adding at the end the following new paragraph:

5 “(9) LIMITATION ON CONTRIBUTIONS TO
 6 QUALIFIED TUITION PROGRAMS NOT MAINTAINED BY
 7 A STATE.—In the case of a program not maintained
 8 by a State or agency or instrumentality thereof, such
 9 program shall not be treated as a qualified tuition
 10 program unless it limits the annual contribution to
 11 the program on behalf of a designated beneficiary to
 12 \$2,000.”.

13 (3) TAX ON EXCESS CONTRIBUTIONS.—

14 (A) IN GENERAL.—Subsection (a) of sec-
 15 tion 4973 is amended by striking “or” at the
 16 end of paragraph (3), by redesignating para-
 17 graph (4) as paragraph (5), and by inserting
 18 after paragraph (3) the following new para-
 19 graph:

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

23 (B) EXCESS CONTRIBUTIONS DEFINED.—

24 Section 4973(e) is amended to read as follows:

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

4 “(1) IN GENERAL.—In the case of private edu-
 5 cation investment accounts maintained for the bene-
 6 fit of any 1 beneficiary, the term ‘excess contribu-
 7 tions’ means the amount by which the amount con-
 8 tributed for the taxable year to such accounts ex-
 9 ceeds \$2,000.

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

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

16 “(B) an education individual retirement
 17 account (as defined in section 530).

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

21 “(A) Any contribution which is distributed
 22 out of the education individual retirement ac-
 23 count in a distribution to which section
 24 530(d)(4)(C) applies.

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

4 “(C) Any rollover contribution.”.

5 (4) CONFORMING AMENDMENTS.—

6 (A) Paragraph (2) of section 26(b) is
 7 amended by redesignating subparagraphs (E)
 8 through (Q) as subparagraphs (F) through (R),
 9 respectively, and by inserting after subpara-
 10 graph (D) the following new subparagraph:

11 “(E) section 529(f) (relating to additional
 12 tax on certain distributions from qualified tui-
 13 tion programs),”.

14 (B) The text and headings of sections 529
 15 and 530 are amended by striking “qualified
 16 State tuition program” each place it appears
 17 and inserting “qualified tuition program”.

18 (C)(i) The section heading of section 529
 19 is amended to read as follows:

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

21 (ii) The item relating to section 529 in the
 22 table of sections for part VIII of subchapter F
 23 of chapter 1 is amended by striking “State”.

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

4 **SEC. 3. EXTENSION OF EXCLUSION FOR EMPLOYER-PRO-**
 5 **VIDED EDUCATIONAL ASSISTANCE.**

6 (a) IN GENERAL.—Section 127 (relating to edu-
 7 cational assistance programs) is amended by striking sub-
 8 section (d) and by redesignating subsection (e) as sub-
 9 section (d).

10 (b) REPEAL OF LIMITATION ON GRADUATE EDU-
 11 CATION.—The last sentence of section 127(c)(1) is amend-
 12 ed by striking “, and such term also does not include any
 13 payment for, or the provision of any benefits with respect
 14 to, any graduate level course of a kind normally taken by
 15 an individual pursuing a program leading to a law, busi-
 16 ness, medical, or other advanced academic or professional
 17 degree”.

18 (c) EFFECTIVE DATES.—

19 (1) EXTENSION.—The amendments made by
 20 subsection (a) shall apply to taxable years beginning
 21 after December 31, 1996.

22 (2) GRADUATE EDUCATION.—The amendment
 23 made by subsection (b) shall apply with respect to
 24 expenses relating to courses beginning after Decem-
 25 ber 31, 1996.

1 **SEC. 4. INCREASE IN CONTRIBUTION LIMIT TO EDUCATION**
 2 **INDIVIDUAL RETIREMENT ACCOUNTS; APPLI-**
 3 **CATION TO ELEMENTARY AND SECONDARY**
 4 **EDUCATION.**

5 (a) INCREASE IN MAXIMUM ANNUAL CONTRIBU-
 6 TIONS.—

7 (1) IN GENERAL.—Section 530(b)(1)(A)(iii) of
 8 the Internal Revenue Code of 1986 is amended by
 9 striking “\$500” and inserting “\$2,000”.

10 (2) CONFORMING AMENDMENTS.—

11 (A) Section 530(d)(4)(C) of such Code is
 12 amended by striking “\$500” and inserting
 13 “\$2,000”.

14 (B) Section 4973(e)(1)(A) of such Code is
 15 amended by striking “\$500” and inserting
 16 “\$2,000”.

17 (b) TAX-FREE EXPENDITURES FOR ELEMENTARY
 18 AND SECONDARY SCHOOL EXPENSES.—

19 (1) IN GENERAL.—Section 530(b)(2) of the In-
 20 ternal Revenue Code of 1986 is amended to read as
 21 follows:

22 “(2) QUALIFIED EDUCATION EXPENSES.—

23 “(A) IN GENERAL.—The term ‘qualified
 24 education expenses’ means—

1 “(i) qualified higher education ex-
 2 penses (as defined in section 529(e)(3)),
 3 and

4 “(ii) in the case of taxable years be-
 5 ginning after December 31, 2000, qualified
 6 elementary and secondary education ex-
 7 penses (as defined in paragraph (4)).

8 Such expenses shall be reduced as provided in
 9 section 25A(g)(2).

10 “(B) QUALIFIED TUITION PROGRAMS.—
 11 Such term shall include amounts paid or in-
 12 curred to purchase tuition credits or certifi-
 13 cates, or to make contributions to an account,
 14 under a qualified tuition program (as defined in
 15 section 529(b)) for the benefit of the beneficiary
 16 of the account.”

17 (2) QUALIFIED ELEMENTARY AND SECONDARY
 18 EDUCATION EXPENSES.—Section 530(b) of such
 19 Code is amended by adding at the end the following
 20 new paragraph:

21 “(4) QUALIFIED ELEMENTARY AND SECONDARY
 22 EDUCATION EXPENSES.—

23 “(A) IN GENERAL.—The term ‘qualified el-
 24 elementary and secondary education expenses’
 25 means tuition, fees, tutoring, special needs serv-

ices, books, supplies, equipment, transportation,
and supplementary expenses required for the
enrollment or attendance of the designated ben-
eficiary of the trust at a public, private, or sec-
tarian school.

“(B) SPECIAL RULE FOR
HOMESCHOOLING.—Such term shall include ex-
penses described in subparagraph (A) required
for education provided for homeschooling if the
requirements of any applicable State or local
law are met with respect to such education.

“(C) SCHOOL.—The term ‘school’ means
any school which provides elementary education
or secondary education (through grade 12), as
determined under State law.”

(3) CONFORMING AMENDMENTS.—Subsections
(b)(1) and (d)(2) of section 530 of such Code are
each amended by striking “higher” each place it ap-
pears in the text and heading thereof.

(c) EFFECTIVE DATE.—The amendments made by
this section shall apply to taxable years beginning after
December 31, 1997.

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