

107TH CONGRESS  
1ST SESSION

# H. R. 538

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

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2001

Ms. GRANGER (for herself, Mr. BURR of North Carolina, Mr. PITTS, Mr. FORD, Mr. SESSIONS, Mr. BONILLA, Mr. WATKINS, Mr. HINCHEY, Mr. BLUNT, Mr. PAUL, Mr. McHUGH, Mr. COMBEST, Mr. DOOLITTLE, and Mrs. KELLY) 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 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.**

4       This Act may be cited as the “Higher Education Af-  
5       fordability Act”.

1 **SEC. 2. EXCLUSION FROM GROSS INCOME OF EDUCATION**  
2 **DISTRIBUTIONS FROM QUALIFIED TUITION**  
3 **PROGRAMS; COVERAGE OF PRIVATE PRO-**  
4 **GRAMS.**

5 (a) EXCLUSION.—

6 (1) IN GENERAL.—Subparagraph (B) of section  
7 529(c)(3) of the Internal Revenue Code of 1986 (re-  
8 lating to distributions) is amended to read as fol-  
9 lows:

10 “(B) DISTRIBUTIONS FOR QUALIFIED  
11 HIGHER EDUCATION EXPENSES.—If a dis-  
12 tributee elects the application of this subpara-  
13 graph for any taxable year—

14 “(i) no amount shall be includible in  
15 gross income by reason of a distribution  
16 which consists of providing a benefit to the  
17 distributee which, if paid for by the dis-  
18 tributee, would constitute payment of a  
19 qualified higher education expense, and

20 “(ii) the amount which (but for the  
21 election) would be includible in gross in-  
22 come by reason of any other distribution  
23 shall not be so includible in an amount  
24 which bears the same ratio to the amount  
25 which would be so includible as the amount  
26 of the qualified higher education expenses

1 of the distributee bears to the amount of  
2 the distribution.”

3 (2) ADDITIONAL TAX ON AMOUNTS NOT USED  
4 FOR HIGHER EDUCATION EXPENSES.—Section 529  
5 of such Code is amended by adding at the end the  
6 following new subsection:

7 “(f) ADDITIONAL TAX FOR DISTRIBUTIONS NOT  
8 USED FOR EDUCATIONAL EXPENSES.—

9 “(1) IN GENERAL.—The tax imposed by section  
10 530(d)(4) shall apply to payments and distributions  
11 from qualified tuition programs in the same manner  
12 as such tax applies to education individual retire-  
13 ment accounts.

14 “(2) EXCESS CONTRIBUTIONS RETURNED BE-  
15 FORE DUE DATE OF RETURN.—Paragraph (1) shall  
16 not apply to the distribution to a contributor of any  
17 contribution paid during a taxable year to a quali-  
18 fied tuition program to the extent that such con-  
19 tribution exceeds the limitation in section 4973(e) if  
20 such distribution (and the net income with respect  
21 to such excess contribution) meets requirements  
22 comparable to the requirements of clauses (i) and  
23 (ii) of section 530(d)(4)(C).”

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

4           (4) CONFORMING AMENDMENT.—Paragraph (2)  
 5           of section 26(b) of such Code is amended by redesign-  
 6           nating subparagraphs (E) through (Q) as subpara-  
 7           graphs (F) through (R), respectively, and by insert-  
 8           ing after subparagraph (D) the following new sub-  
 9           paragraph:

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

13           (5) EFFECTIVE DATE.—The amendments made  
 14           by this subsection shall apply to distributions after  
 15           December 31, 2000, for education furnished in aca-  
 16           demic periods beginning after such date.

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

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

1           (2) PRIVATE QUALIFIED TUITION PROGRAMS  
 2           LIMITED TO BENEFIT PLANS.—Clause (ii) of section  
 3           529(b)(1)(A) of such Code is amended by inserting  
 4           “in the case of a program established and main-  
 5           tained by a State or agency or instrumentality there-  
 6           of,” before “may make”.

7           (3) CONFORMING AMENDMENTS.—

8                   (A) Sections 72(e)(9), 135(c)(2)(C),  
 9                   135(d)(1)(D), 529, 530(b)(2)(B), 4973(e), and  
 10                  6693(a)(2)(C) of such Code are each amended  
 11                  by striking “qualified State tuition” each place  
 12                  it appears and inserting “qualified tuition”.

13                  (B) The headings for sections 72(e)(9) and  
 14                  135(c)(2)(C) of such Code are each amended by  
 15                  striking “QUALIFIED STATE TUITION” and in-  
 16                  serting “QUALIFIED TUITION”.

17                  (C) The headings for sections 529(b) and  
 18                  530(b)(2)(B) of such Code are each amended  
 19                  by striking “QUALIFIED STATE TUITION” and  
 20                  inserting “QUALIFIED TUITION”.

21                  (D) The heading for section 529 of such  
 22                  Code is amended by striking “**STATE**”.

23                  (E) The item relating to section 529 in the  
 24                  table of sections for part VIII of subchapter F

1 of chapter 1 of such Code is amended by strik-  
 2 ing “State”.

3 (4) EFFECTIVE DATE.—The amendments made  
 4 by this subsection shall apply to taxable years begin-  
 5 ning after December 31, 2000.

6 (c) CHANGE OF QUALIFIED TUITION PROGRAM OR  
 7 OF DESIGNATED BENEFICIARY.—

8 (1) IN GENERAL.—Clause (i) of section  
 9 529(c)(3)(C) of such Code is amended by inserting  
 10 “to another qualified tuition program for the benefit  
 11 of the designated beneficiary or” after “trans-  
 12 ferred”.

13 (2) INCLUSION OF SIBLINGS AS MEMBER OF  
 14 FAMILY.—Paragraph (2) of section 529(e) of such  
 15 Code is amended by striking “and” at the end of  
 16 subparagraph (B), by striking the period at the end  
 17 of subparagraph (C) and inserting “; and”, and by  
 18 adding at the end the following new subparagraph:

19 “(D) any sibling (whether by the whole or  
 20 half blood) of the designated beneficiary.”.

21 (3) EFFECTIVE DATE.—The amendments made  
 22 by this subsection shall apply to taxable years begin-  
 23 ning after December 31, 2000.

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