

108TH CONGRESS
1ST SESSION

H. R. 129

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.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 7, 2003

Mr. HOLT introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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”.

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

2 (a) DEDUCTION ALLOWED.—Part VII of subchapter
3 B of chapter 1 of the Internal Revenue Code of 1986 (re-
4 lating to additional itemized deductions for individuals) is
5 amended by redesignating section 223 as section 224 and
6 by inserting after section 222 the following:

7 **“SEC. 223. HIGHER EDUCATION EXPENSES.**

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

12 “(b) LIMITATIONS.—

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

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

21 “(i) the lesser of—

22 “(I) \$10,000 for each eligible
23 student, or

24 “(II) \$15,000, over

25 “(ii) the amount of such expenses
26 which are taken into account in deter-

1 mining the credit allowable to the taxpayer
2 or any other person under section
3 25A(a)(1) with respect to such expenses,
4 and

5 “(B) in the case of a taxpayer with respect
6 to whom the credit under section 25A(a)(1) is
7 reduced to zero by reason of section 25A(d)(1),
8 \$5,000.

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

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

19 “(B) in the case of a taxpayer with respect
20 to which a credit under section 25A(a)(1) would
21 be reduced to zero by reason of section
22 25A(d)(1), \$5,000, and

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

1 “(3) DEDUCTION ALLOWED ONLY FOR 4 TAX-
 2 ABLE YEARS FOR EACH ELIGIBLE STUDENT.—A de-
 3 duction may not be allowed under subsection (a)
 4 with respect to the qualified tuition and related ex-
 5 penses of an eligible student for any taxable year if
 6 such a deduction was allowable with respect to such
 7 expenses for such student for any 4 prior taxable
 8 years.

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

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

17 “(e) SPECIAL RULES.—For purposes of this sec-
 18 tion—

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

25 “(2) NO DOUBLE BENEFIT.—

1 “(A) COORDINATION WITH EXCLUSIONS.—

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

10 “(B) DEPENDENTS.—No deduction shall

11 be allowed under subsection (a) to any indi-
12 vidual with respect to whom a deduction under
13 section 151 is allowable to another taxpayer for
14 a taxable year beginning in the calendar year in
15 which such individual’s taxable year begins.

16 “(3) LIMITATION ON TAXABLE YEAR OF DE-
17 DUCTION.—

18 “(A) IN GENERAL.—A deduction shall be

19 allowed under subsection (a) for qualified tui-
20 tion and related expenses for any taxable year
21 only to the extent such expenses are in connec-
22 tion with enrollment at an institution of higher
23 education during the taxable year.

24 “(B) CERTAIN PREPAYMENTS ALLOWED.—

25 Subparagraph (A) shall not apply to qualified

1 tuition and related expenses paid during a tax-
2 able year if such expenses are in connection
3 with an academic term beginning during such
4 taxable year or during the first 3 months of the
5 next taxable year.

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

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

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

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

1 “(5) NO DEDUCTION FOR MARRIED INDIVID-
2 UALS FILING SEPARATE RETURNS.—If the taxpayer
3 is a married individual (within the meaning of sec-
4 tion 7703), this section shall apply only if the tax-
5 payer and the taxpayer’s spouse file a joint return
6 for the taxable year.

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

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

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

22 “(19) HIGHER EDUCATION EXPENSES.—The
23 deduction allowed by section 223.”.

24 (c) DETERMINATION OF ADJUSTED GROSS INCOME
25 WITH RESPECT TO OTHER BENEFITS.—

1 (1) Section 21(a)(2) of the Internal Revenue
2 Code of 1986 is amended by inserting “(determined
3 without regard to section 223)” after “adjusted
4 gross income”.

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

6 (A) by inserting “(determined without re-
7 gard to section 223)” after “adjusted gross in-
8 come” the first place it appears, and

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

12 (3) Section 23(b)(2)(B) of such Code is amend-
13 ed by inserting “223,” before “911”.

14 (4) Section 24(b)(1) of such Code is amended
15 by inserting “223,” before “911”.

16 (5) Section 86(b)(2)(A) of such Code is amend-
17 ed by inserting “223,” before “911”.

18 (6) Section 137(b)(3)(A) of such Code is
19 amended by inserting “223,” before “911”.

20 (7) Section 151(d)(3) of such Code is amend-
21 ed—

22 (A) by inserting “(determined without re-
23 gard to section 223)” after “adjusted gross in-
24 come” in subparagraph (A), and

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

3 (8) Section 165(h)(2)(A)(ii) of such Code is
4 amended by inserting “(determined without regard
5 to section 223)” after “adjusted gross income”.

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

9 (10) Section 219(g)(3)(A)(ii) of such Code is
10 amended by inserting “223,” after “221,”.

11 (11) Section 221(b)(2)(C)(i) of such Code is
12 amended by inserting “223,” before “911”.

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

15 (A) by inserting “(determined without re-
16 gard to section 223)” after “adjusted gross in-
17 come” in clause (ii), and

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

21 (13) Section 469(i)(3)(E)(iii) of such Code is
22 amended by striking “and 221” and inserting “,
23 221, and 223”.

24 (14) Section 1400C(b)(2) of such Code is
25 amended by inserting “223,” before “911”.

1 (d) CONFORMING AMENDMENTS.—The table of sec-
 2 tions for part VII of subchapter B of chapter 1 of the
 3 Internal Revenue Code of 1986 is amended by striking the
 4 item relating to section 223 and inserting the following:

“Sec. 223. Higher education expenses.
 “Sec. 224. Cross reference.”.

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

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

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

14 (b) INCREASE IN AGI LIMITS.—

15 (1) IN GENERAL.—Subsection (d) of section
 16 25A of the Internal Revenue Code of 1986 is
 17 amended to read as follows:

18 “(d) LIMITATION BASED ON MODIFIED ADJUSTED
 19 GROSS INCOME.—

20 “(1) HOPE CREDIT.—

21 “(A) IN GENERAL.—The amount which
 22 would (but for this subsection) be taken into ac-
 23 count under subsection (a)(1) shall be reduced

1 (but not below zero) by the amount determined
2 under subparagraph (B).

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

8 “(i) the excess of—

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

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

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

16 “(2) LIFETIME LEARNING CREDIT.—

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

22 “(B) AMOUNT OF REDUCTION.—The
23 amount determined under this subparagraph
24 equals the amount which bears the same ratio

1 to the amount which would be so taken into ac-
 2 count as—

3 “(i) the excess of—

4 “(I) the taxpayer’s modified ad-
 5 justed gross income for such taxable
 6 year, over

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

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

11 “(3) MODIFIED ADJUSTED GROSS INCOME.—

12 For purposes of this subsection, the term ‘modified
 13 adjusted gross income’ means the adjusted gross in-
 14 come of the taxpayer for the taxable year increased
 15 by any amount excluded from gross income under
 16 section 911, 931, or 933.”.

17 (2) CONFORMING AMENDMENT.—Paragraph (2)
 18 of section 25A(h) of such Code is amended to read
 19 as follows:

20 “(2) INCOME LIMITS.—

21 “(A) HOPE CREDIT.—In the case of a tax-
 22 able year beginning after 2003, the \$50,000
 23 and \$100,000 amounts in subsection
 24 (d)(1)(B)(i)(II) shall be increased by an amount
 25 equal to—

1 “(i) such dollar amount, multiplied by

2 “(ii) the cost-of-living adjustment de-
3 termined under section 1(f)(3) for the cal-
4 endar year in which the taxable year be-
5 gins, determined by substituting ‘calendar
6 year 2002’ for ‘calendar year 1992’ in sub-
7 paragraph (B) thereof.

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

13 “(i) such dollar amount, multiplied by

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

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

24 (c) COORDINATION WITH OTHER HIGHER EDU-
25 CATION BENEFITS.—Section 25A(g) of such Code is

1 amended by striking paragraph (5) and by redesignating
2 paragraphs (6) and (7) as paragraphs (5) and (6), respec-
3 tively.

4 (d) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to expenses paid after December
6 31, 2002 (in taxable years ending after such date), for
7 education furnished in academic periods beginning after
8 such date.

9 **SEC. 4. RELATIONSHIP BETWEEN TUITION AND FINANCIAL**
10 **AID.**

11 (a) STUDY.—The Comptroller General of the United
12 States shall conduct an annual study to examine whether
13 the Federal income tax incentives to provide education as-
14 sistance affect higher education tuition rates in order to
15 identify if institutions of higher education are absorbing
16 the intended savings by raising tuition rates.

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

20 **SEC. 5. SENSE OF THE HOUSE OF REPRESENTATIVES RE-**
21 **GARDING PELL GRANTS.**

22 It is the sense of the House of Representatives that
23 the maximum Pell Grant should be increased to \$4,700
24 to pay approximately—

- 1 (1) 20 percent of the tuition, fees, room and
- 2 board, and other expenses of the average college, or
- 3 (2) the tuition and fees of the average public
- 4 college.

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