

111TH CONGRESS
1ST SESSION

H. R. 1957

To amend the Internal Revenue Code of 1986 to provide a higher education tuition credit in place of existing education tax incentives.

IN THE HOUSE OF REPRESENTATIVES

APRIL 2, 2009

Mr. PETERS introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to provide a higher education tuition credit in place of existing education tax incentives.

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 “Helping Families Af-
5 ford Tuition Act”.

6 **SEC. 2. HIGHER EDUCATION TUITION CREDIT.**

7 (a) IN GENERAL.—Section 25A of the Internal Rev-
8 enue Code of 1986 (relating to Hope and Lifetime Learn-
9 ing credits) is amended to read as follows:

1 **“SEC. 25A. HIGHER EDUCATION TUITION CREDIT.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of any
3 eligible student for whom an election is in effect under
4 this section for any taxable year, there shall be allowed
5 as a credit against the tax imposed by this chapter for
6 the taxable year in an amount equal to 50 percent of so
7 much of the qualified tuition and related expenses paid
8 by the taxpayer during the taxable year (for education fur-
9 nished to the eligible student during any academic period
10 beginning in such taxable year) as does not exceed
11 \$10,000.

12 “(b) LIMITATIONS.—

13 “(1) LIMITATION BASED ON MODIFIED AD-
14 JUSTED GROSS INCOME.—

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

20 “(B) AMOUNT OF REDUCTION.—The
21 amount determined under this subparagraph is
22 the amount which bears the same ratio to the
23 amount which would be so taken into account
24 as—

25 “(i) the excess of—

1 “(I) the taxpayer’s modified ad-
2 justed gross income for such taxable
3 year, over

4 “(II) \$100,000 (\$200,000 in the
5 case of a joint return), bears to

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

8 “(C) MODIFIED ADJUSTED GROSS IN-
9 COME.—The term ‘modified adjusted gross in-
10 come’ means the adjusted gross income of the
11 taxpayer for the taxable year increased by any
12 amount excluded from gross income under sec-
13 tion 911, 931, or 933.

14 “(2) OTHER LIMITATIONS.—

15 “(A) CREDIT ALLOWED ONLY FOR 5 TAX-
16 ABLE YEARS.—An election to have this section
17 apply with respect to any eligible student may
18 not be made for any taxable year if such an
19 election (by the taxpayer or any other indi-
20 vidual) is in effect with respect to such student
21 for any 5 prior taxable years.

22 “(B) CREDIT ALLOWED FOR YEAR ONLY IF
23 INDIVIDUAL IS AT LEAST 1/2 TIME STUDENT
24 FOR PORTION OF YEAR.—The credit under sub-
25 section (a) shall not be allowed for a taxable

1 year with respect to the qualified tuition and re-
2 lated expenses of an individual unless such indi-
3 vidual is an eligible student for at least one aca-
4 demic period which begins during such year.

5 “(C) CREDIT ALLOWED ONLY FOR FIRST 5
6 YEARS OF POST SECONDARY EDUCATION.—An
7 election to have this section apply with respect
8 to any eligible student may not be made for any
9 taxable year if the student has completed (be-
10 fore the beginning of such taxable year) 5 years
11 of post secondary education at one or more eli-
12 gible educational institutions.

13 “(D) DENIAL OF CREDIT IF STUDENT
14 CONVICTED OF A FELONY DRUG OFFENSE.—
15 The credit under subsection (a) shall not be al-
16 lowed for qualified tuition and related expenses
17 for the enrollment or attendance of a student
18 for any academic period if such student has
19 been convicted of a Federal or State felony of-
20 fense consisting of the possession or distribu-
21 tion of a controlled substance before the end of
22 the taxable year with or within which such pe-
23 riod ends.

24 “(e) DEFINITIONS.—For purposes of this sub-
25 section—

1 “(1) ELIGIBLE STUDENT.—The term ‘eligible
2 student’ means, with respect to any academic period,
3 a student who—

4 “(A) meets the requirements of section
5 484(a)(1) of the Higher Education Act of 1965
6 (20 U.S.C. 1091(a)(1)), as in effect on the date
7 of the enactment of the Taxpayer Relief Act of
8 1997, and

9 “(B) is carrying at least $\frac{1}{2}$ the normal
10 full-time work load for the course of study the
11 student is pursuing.

12 “(2) QUALIFIED TUITION AND RELATED EX-
13 PENSES.—

14 “(A) IN GENERAL.—The term ‘qualified
15 tuition and related expenses’ means tuition and
16 fees required for the enrollment or attendance
17 of an eligible student who is—

18 “(i) the taxpayer,

19 “(ii) the taxpayer’s spouse, or

20 “(iii) any dependent of the taxpayer
21 with respect to whom the taxpayer is al-
22 lowed a deduction under section 151,
23 at an eligible educational institution for courses
24 of instruction of such individual at such institu-
25 tion.

1 “(B) EXCEPTION FOR EDUCATION INVOLV-
 2 ING SPORTS, ETC.—Such term does not include
 3 expenses with respect to any course or other
 4 education involving sports, games, or hobbies,
 5 unless such course or other education is part of
 6 the individual’s degree program.

7 “(C) EXCEPTION FOR NONACADEMIC
 8 FEES.—Such term does not include student ac-
 9 tivity fees, athletic fees, insurance expenses, or
 10 other expenses unrelated to an individual’s aca-
 11 demic course of instruction.

12 “(3) ELIGIBLE EDUCATIONAL INSTITUTION.—
 13 The term ‘eligible educational institution’ means an
 14 institution—

15 “(A) which is described in section 481 of
 16 the Higher Education Act of 1965 (20 U.S.C.
 17 1088), as in effect on the date of the enactment
 18 of the Taxpayer Relief Act of 1997, and

19 “(B) which is eligible to participate in a
 20 program under title IV of the Higher Education
 21 Act of 1965.

22 “(d) SPECIAL RULES.—

23 “(1) IDENTIFICATION REQUIREMENT.—No
 24 credit shall be allowed under subsection (a) to a tax-
 25 payer with respect to the qualified tuition and re-

1 lated expenses of an individual unless the taxpayer
2 includes the name and taxpayer identification num-
3 ber of such individual on the return of tax for the
4 taxable year.

5 “(2) ADJUSTMENT FOR CERTAIN SCHOLAR-
6 SHIPS, ETC.—The amount of qualified tuition and
7 related expenses otherwise taken into account under
8 subsection (a) with respect to an individual for an
9 academic period shall be reduced (before the applica-
10 tion of subsections (a), (b), and (c)) by the sum of
11 any amounts paid for the benefit of such individual
12 which are allocable to such period as—

13 “(A) a qualified scholarship which is ex-
14 cludable from gross income under section 117,

15 “(B) an educational assistance allowance
16 under chapter 30, 31, 32, 34, or 35 of title 38,
17 United States Code, or under chapter 1606 of
18 title 10, United States Code, and

19 “(C) a payment (other than a gift, be-
20 quest, devise, or inheritance within the meaning
21 of section 102(a)) for such individual’s edu-
22 cational expenses, or attributable to such indi-
23 vidual’s enrollment at an eligible educational in-
24 stitution, which is excludable from gross income
25 under any law of the United States.

1 “(3) TREATMENT OF EXPENSES PAID BY DE-
 2 PENDENT.—If a deduction under section 151 with
 3 respect to an individual is allowed to another tax-
 4 payer for a taxable year beginning in the calendar
 5 year in which such individual’s taxable year begins—

6 “(A) no credit shall be allowed under sub-
 7 section (a) to such individual for such individ-
 8 ual’s taxable year, and

9 “(B) qualified tuition and related expenses
 10 paid by such individual during such individual’s
 11 taxable year shall be treated for purposes of
 12 this section as paid by such other taxpayer.

13 “(4) TREATMENT OF CERTAIN PREPAY-
 14 MENTS.—If qualified tuition and related expenses
 15 are paid by the taxpayer during a taxable year for
 16 an academic period which begins during the first 3
 17 months following such taxable year, such academic
 18 period shall be treated for purposes of this section
 19 as beginning during such taxable year.

20 “(5) DENIAL OF DOUBLE BENEFIT.—No credit
 21 shall be allowed under this section for any expense
 22 for which a deduction is allowed under any other
 23 provision of this chapter.

24 “(6) NO CREDIT FOR MARRIED INDIVIDUALS
 25 FILING SEPARATE RETURNS.—If the taxpayer is a

1 married individual (within the meaning of section
2 7703), this section shall apply only if the taxpayer
3 and the taxpayer's spouse file a joint return for the
4 taxable year.

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

11 “(e) REGULATIONS.—The Secretary may prescribe
12 such regulations as may be necessary or appropriate to
13 carry out this section, including regulations providing for
14 a recapture of the credit allowed under this section in
15 cases where there is a refund in a subsequent taxable year
16 of any amount which was taken into account in deter-
17 mining the amount of such credit.”.

18 (b) REPEAL OF DEDUCTION FOR QUALIFIED TUI-
19 TION AND RELATED EXPENSES.—

20 (1) IN GENERAL.—Part VII of subchapter B of
21 chapter 1 of the Internal Revenue Code of 1986 is
22 amended by striking section 222 (relating to quali-
23 fied tuition and related expenses).

24 (2) CLERICAL AMENDMENT.—The table of sec-
25 tion for part VII of subchapter B of chapter 1 of

1 such Code is amended by striking the item relating
2 to section 222.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Section 62(a) of such Code is amended by
5 striking paragraph (18).

6 (2) Subparagraph (B) of section 72(t)(7) of
7 such Code is amended by striking “section
8 25A(g)(2)” and inserting “section 25A(d)(2)”.

9 (3) Section 221(d) of such Code is amended—

10 (A) by striking “section 25A(g)(2)” in
11 paragraph (2)(B) and inserting “section
12 25A(d)(2)”,

13 (B) by striking “section 25A(f)(2)” in
14 paragraph (2)(B) and inserting “section
15 25A(c)(3)”, and

16 (C) by striking “section 25A(b)(3)” in
17 paragraph (3) and inserting “section
18 25A(c)(1)”.

19 (4) Section 529 of such Code is amended—

20 (A) by striking “section 25A(g)(2)” in sub-
21 clause (I) of subsection (c)(3)(B)(v) and insert-
22 ing “section 25A(d)(2)”, and

23 (B) by striking “section 25A(b)(3)” in
24 clause (i) of subsection (e)(3)(B) and inserting
25 “section 25A(c)(1)”.

1 (5) Section 530 of such Code is amended—

2 (A) by striking “section 25A(g)(2)” in sub-
3 clause (I) of subsection (d)(2)(C)(i) and insert-
4 ing “section 25A(d)(2)”, and

5 (B) by striking “section 25A(g)(2)” in
6 clause (iii) of subsection (d)(4)(B) and inserting
7 “section 25A(d)(2)”.

8 (6) Section 1400O of such Code is amended by
9 adding at the end the following flush sentence:
10 “For purposes of this section, any reference to section 25A
11 shall be treated as a reference to such section before the
12 date of the enactment of this sentence.”.

13 (7) Subsection (e) of section 6050S of such
14 Code is amended by striking “(without regard to
15 subsection (g)(2) thereof)” and inserting “(without
16 regard to subsection (d)(2) thereof)”.

17 (8) Subparagraph (J) of section 6213(g)(2) of
18 such Code is amended by striking “section
19 25A(g)(1)” and inserting “section 25A(d)(1)”.

20 (9) The table of sections for subpart A of part
21 IV of subchapter A of chapter 1 of such Code is
22 amended by striking the item relating to section 25A
23 and inserting the following:

“Sec. 25A. Higher education tuition credit.”.

1 (d) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2010.

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