

115TH CONGRESS
2D SESSION

H. R. 5916

To amend the Internal Revenue Code of 1986 to impose a tax on institutions of higher education that fail to use 25 percent of the growth in endowment value for grants for working-family students each year, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2018

Mr. REED 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 impose a tax on institutions of higher education that fail to use 25 percent of the growth in endowment value for grants for working-family students each year, 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 “Reducing Excessive
5 Debt and Unfair Costs of Education Act of 2018” or the
6 “REDUCE Act of 2018”.

1 **SEC. 2. EXCISE TAX ON UNDISTRIBUTED REQUIRED PAY-**
 2 **OUTS FROM ENDOWMENTS OF CERTAIN IN-**
 3 **STITUTIONS OF HIGHER EDUCATION.**

4 (a) IN GENERAL.—Subchapter H of chapter 42 of
 5 the Internal Revenue Code of 1986 is amended to read
 6 as follows:

7 **“Subchapter H—Failure by Certain Institu-**
 8 **tions of Higher Education to Make Cer-**
 9 **tain Payouts**

“Sec. 4968. Excise tax on undistributed required payouts from endowments of certain institutions of higher education.

10 **“SEC. 4968. EXCISE TAX ON UNDISTRIBUTED REQUIRED**
 11 **PAYOUTS FROM ENDOWMENTS OF CERTAIN**
 12 **INSTITUTIONS OF HIGHER EDUCATION.**

13 “(a) INITIAL TAX.—There is hereby imposed, on an
 14 undistributed required payout of a qualified institution of
 15 higher education for a taxable year, on the first day of
 16 the first academic period beginning after the close of such
 17 taxable year, a tax equal to 1.4 percent of such undistrib-
 18 uted required payout as of such day.

19 “(b) ADDITIONAL TAX.—In any case in which an ini-
 20 tial tax is imposed under subsection (a) on an undistrib-
 21 uted required payout, if any portion of such undistributed
 22 required payout exists—

23 “(1) on the date which is 1 year after the date
 24 on which the initial tax was imposed, there is hereby

1 imposed an additional tax equal to 30 percent of
2 such undistributed required payout as of the date
3 such tax is imposed, and

4 “(2) on the date which is 2 years after the date
5 on which the initial tax was imposed, there is hereby
6 imposed an additional tax equal to 100 percent of
7 such undistributed required payout as of the date
8 such tax is imposed.

9 “(c) SUSPENSION OF DEDUCTIBLE CONTRIBU-
10 TIONS.—

11 “(1) IN GENERAL.—No deduction shall be al-
12 lowed under any provision of this title (including
13 sections 170, 545(b)(2), 556(b)(2), 642(c), 2055,
14 2106(a)(2), and 2522) with respect to any contribu-
15 tion to an organization during a contribution sus-
16 pension period.

17 “(2) CONTRIBUTION SUSPENSION PERIOD.—
18 For purposes of this subsection, the term ‘contribu-
19 tion suspension period’ means, with respect to any
20 qualified institution of higher education, the period
21 beginning on the day after a return under section
22 6033 is filed for a taxable year for which there is
23 an undistributed required payout, and ending on the
24 first day no portion of such undistributed required
25 payout exists.

1 “(3) NOTICE OF SUSPENSION.—If the deduct-
2 ibility of contributions is suspended under this sub-
3 section, the Internal Revenue Service shall update
4 the listings of tax-exempt organizations, and the In-
5 ternal Revenue Service and such organization shall
6 publish appropriate notice to the public of such sus-
7 pension and of the fact that contributions to such
8 organization are not deductible during the period of
9 such suspension.

10 “(d) SPECIAL RULE FOR COMPLETE PAYMENT FOR
11 WORKING-FAMILY STUDENTS.—With respect to a quali-
12 fied institution of higher education for a taxable year, if,
13 during the one-year period preceding the date on which
14 an initial tax under subsection (a) would (but for this sub-
15 section) be imposed on the undistributed required payout
16 for such taxable year, each degree-seeking working-family
17 student receives an amount of grants for such period that
18 is not less than the cost of attendance for such student
19 at such institution during such period, no tax shall be im-
20 posed under this section on the undistributed required
21 payout for such taxable year.

22 “(e) DEFINITIONS AND SPECIAL RULE.—For pur-
23 poses of this section—

24 “(1) QUALIFIED INSTITUTION OF HIGHER EDU-
25 CATION.—

1 “(A) IN GENERAL.—The term ‘qualified
2 institution of higher education’ means an eligi-
3 ble educational institution (as defined in section
4 25A(f)(2))—

5 “(i) which had at least 500 tuition-
6 paying students during the preceding tax-
7 able year,

8 “(ii) more than 50 percent of the tui-
9 tion-paying students of which are located
10 in the United States,

11 “(iii) the aggregate fair market value
12 of the assets of which at the end of the
13 preceding taxable year (other than those
14 assets which are used directly in carrying
15 out the institution’s exempt purpose) is at
16 least \$500,000 per student of the institu-
17 tion, and

18 “(iv) of which less than the applicable
19 percentage of undergraduates enrolled dur-
20 ing the taxable year receive Federal Pell
21 Grants under section 401 of the Higher
22 Education Act of 1965 (20 U.S.C. 1070a).

23 “(B) STUDENTS.—For purposes of sub-
24 paragraph (A), the number of students of an
25 institution (including for purposes of deter-

mining the number of students at a particular location) shall be based on the daily average number of full-time students attending such institution (with part-time students taken into account on a full-time student equivalent basis).

“(C) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage is—

“(i) in the case of taxable years beginning in 2018, 28 percent,

“(ii) in the case of taxable years beginning in 2019, 29 percent,

“(iii) in the case of taxable years beginning in 2020, 30 percent,

“(iv) in the case of taxable years beginning in 2021, 31 percent,

“(v) in the case of taxable years beginning in 2022, 32 percent, and

“(vi) in the case of taxable years beginning after 2022, 33 percent.

“(2) UNDISTRIBUTED REQUIRED PAYOUT.—

With respect to a qualified institution of higher education for a taxable year—

“(A) IN GENERAL.—The term ‘undistributed required payout’ means, as of a date on

1 which a tax is imposed under subsection (a) or
2 (b), the amount by which—

3 “(i) the required payout for such tax-
4 able year, exceeds

5 “(ii) the grants to working-family stu-
6 dents made by such institution before such
7 date out of such required payout.

8 “(B) DE MINIMIS EXCEPTION.—If an un-
9 distributed required payout with respect to a
10 qualified institution of higher education for a
11 taxable year is not more than 1 percent of the
12 required payout with respect to such institution
13 for such taxable year (or, if less, \$250,000),
14 subsections (a), (b), and (c) shall not apply
15 with respect to such undistributed required pay-
16 out.

17 “(C) PROGRESSIVE GRANT REQUIRE-
18 MENT.—A grant out of a required payout for a
19 working-family student for an academic period
20 shall only qualify for the purposes of subpara-
21 graph (A)(ii) to the extent that the amount of
22 grants by such institution for such student for
23 such academic period is not more than the least
24 amount of grants given by such institution out
25 of such required payout for such academic pe-

1 riod to any degree-seeking working-family stu-
2 dent with a lower household income than such
3 student. For purposes of the preceding sen-
4 tence, grant amounts shall be determined on a
5 per credit basis.

6 “(3) REQUIRED PAYOUT.—The term ‘required
7 payout’ means, with respect to any qualified institu-
8 tion of higher education for any taxable year, an
9 amount equal to 25 percent of the average net in-
10 vestment income with respect to such institution for
11 such taxable year and the preceding 6 taxable years.

12 “(4) NET INVESTMENT INCOME.—The term
13 ‘net investment income’ means, with respect to any
14 qualified institution of higher education for any tax-
15 able year, the excess (if any) of—

16 “(A) the aggregate fair market value of all
17 endowments of such institution (determined as
18 of the close of the preceding taxable year),
19 minus any contributions to such endowments
20 received during such preceding taxable year,
21 plus any spending from such endowments dur-
22 ing such preceding taxable year, over

23 “(B) the aggregate fair market value of all
24 endowments of such institution (determined as

1 of the close of the second preceding taxable
2 year).

3 “(5) GRANT FOR A WORKING-FAMILY STU-
4 DENT.—

5 “(A) IN GENERAL.—The term ‘grant for a
6 working-family student’ means, with respect to
7 a qualified institution of higher education, a
8 grant by such institution for all or a portion of
9 the cost of attendance to a working-family stu-
10 dent attending such institution.

11 “(B) WORKING-FAMILY STUDENT.—The
12 term ‘working-family student’ means, with re-
13 spect to a qualified institution of higher edu-
14 cation for a taxable year, an individual—

15 “(i) who is enrolled (part-time or full-
16 time) as an undergraduate student in such
17 institution during an academic period be-
18 ginning in such taxable year; and

19 “(ii) whose household income for the
20 taxable year does not exceed 600 percent
21 of an amount equal to the poverty line for
22 a family of the size involved.

23 “(6) COST OF ATTENDANCE.—The term ‘cost of
24 attendance’, with respect to a student attending a
25 qualified institution of higher education for an aca-

1 demic period, has the meaning given such term in
2 section 472 of the Higher Education Act of 1965
3 (20 U.S.C. 1087ll), less any grants for cost of at-
4 tendance (as defined in such section) received by
5 such student from any person other than such insti-
6 tution during such academic period.

7 “(7) FAFSA SAFE HARBOR.—For purposes of
8 this section, a qualified institution of higher edu-
9 cation may rely on data from Free Applications for
10 Federal Student Aid authorized under section
11 483(a) of the Higher Education Act of 1965 (20
12 U.S.C. 1092(a)).

13 “(8) FAMILY SIZE; HOUSEHOLD INCOME; POV-
14 ERTY LINE.—The terms ‘family size’, ‘household in-
15 come’, and ‘poverty line’ have the respective mean-
16 ings given such terms in section 36B(d). In the case
17 of any student with respect to whom a deduction is
18 allowable under section 151 to another taxpayer, the
19 terms ‘family size’ and ‘household income’ shall be
20 determined with respect to such other taxpayer.

21 “(9) ASSETS AND NET INVESTMENT INCOME OF
22 RELATED ORGANIZATIONS.—

23 “(A) IN GENERAL.—For purposes of para-
24 graphs (1)(A)(iii) and (4), assets and net in-
25 vestment income of any related organization

1 with respect to an educational institution shall
2 be treated as assets and net investment income,
3 respectively, of the educational institution, ex-
4 cept that—

5 “(i) no such amount shall be taken
6 into account with respect to more than 1
7 educational institution, and

8 “(ii) unless such organization is con-
9 trolled by such institution or is described
10 in section 509(a)(3) with respect to such
11 institution for the taxable year, assets and
12 net investment income which are not in-
13 tended or available for the use or benefit
14 of the educational institution shall not be
15 taken into account.

16 “(B) RELATED ORGANIZATION.—For pur-
17 poses of this subsection, the term ‘related orga-
18 nization’ means, with respect to an educational
19 institution, any organization which—

20 “(i) controls, or is controlled by, such
21 institution,

22 “(ii) is controlled by one or more per-
23 sons which also control such institution, or

24 “(iii) is a supported organization (as
25 defined in section 509(f)(3)), or an organi-

1 zation described in section 509(a)(3), dur-
2 ing the taxable year with respect to such
3 institution.”.

4 (b) SPECIAL RULES RELATING TO DEDUCTION OF
5 RESTRICTED AND UNRESTRICTED GIFTS.—Section 170
6 of such Code is amended—

7 (1) by redesignating subsection (p) as sub-
8 section (q); and

9 (2) by inserting after subsection (o) the fol-
10 lowing new subsection:

11 “(p) SPECIAL RULE FOR GIFTS TO INSTITUTIONS OF
12 HIGHER EDUCATION.—

13 “(1) IN GENERAL.—In the case of contributions
14 by an individual to a institution of higher education
15 (as defined in subsection section 4968(e))—

16 “(A) if the use of any such amounts are
17 restricted by the taxpayer to a use other than
18 scholarships, no deduction shall be allowed for
19 so much of the aggregate of such restricted con-
20 tributions for the taxable year as exceeds
21 \$5,000,

22 “(B) if the use of such amounts are unre-
23 stricted, the amount taken into account under
24 this section for the taxable year shall include an

1 allowance equal to 25 percent of the aggregate
2 amount of such unrestricted contributions, and

3 “(C) if the use of any such amounts are
4 restricted by the taxpayer to scholarships for
5 working-family students (as defined in section
6 4968(e)(5)(B)), the amount taken into account
7 under this section for the taxable year shall in-
8 clude an allowance equal to 50 percent of the
9 aggregate amount of such scholarship restricted
10 contributions.

11 Any such allowance shall be taken into account
12 under this section in the same manner as the con-
13 tribution with respect to which such allowance was
14 determined, except that the limitation with respect
15 to an individual for any taxable year under sub-
16 section (b)(1)(A) shall be increased by the amount
17 of any allowances allowed under paragraphs (B) or
18 (C) for such taxable year.

19 “(2) INSTITUTION OF HIGHER EDUCATION.—
20 For purposes of this subsection, the term ‘edu-
21 cational institution’ means an institution that is de-
22 scribed in section 101 of the Higher Education Act
23 of 1965 (20 U.S.C. 1001).”.

24 (c) REQUIREMENTS FOR TAX EXEMPT STATUS OF
25 QUALIFIED INSTITUTIONS OF HIGHER EDUCATION.—

1 Section 501 of the Internal Revenue Code of 1986 is
2 amended by adding at the end the following new sub-
3 section:

4 “(s) ADDITIONAL REQUIREMENTS FOR INSTITU-
5 TIONS OF HIGHER EDUCATION.—

6 “(1) FIVE-YEAR PLAN.—An institution of high-
7 er education (as defined in section 170(p)(2)) shall
8 not be treated as described in subsection (c)(3) un-
9 less the institution submits to the Secretary (at such
10 time and in such manner as the Secretary shall pre-
11 scribe) 5-year plans which—

12 “(A) are designed to ensure the percentage
13 increase in the cost of education for any aca-
14 demic year at such institution (as compared to
15 the preceding academic year) will not exceed
16 the percentage increase in the Consumer Price
17 Index for all-urban consumers published by the
18 Department of Labor (for the same periods),

19 “(B) in the case of any plan after the first
20 5-year plan submitted under this paragraph,
21 describe any failure to achieve the goals of the
22 preceding 5-year plan and any steps being
23 taken to address such failures,

1 “(C) identify areas in which costs are pro-
2 jected to increase the most and the measures
3 being taken to address such cost increases, and

4 “(D) contain such other information as the
5 Secretary determines is necessary for carrying
6 out the purposes of this subsection.

7 “(2) REPORT.—The plan shall include a report
8 which includes information detailing salaries paid by
9 the institution, any certified audited financial state-
10 ment, any fees paid by the institution for investment
11 management services, the institutions’s long-term
12 spending plan, the institution’s investments (includ-
13 ing the risk profile and expected rate of return of
14 such investments), and the institution’s 5 largest
15 spending categories, the amounts spent within those
16 categories, and the 5 items within each category on
17 which the most is spent. The institution shall make
18 such plan publicly available and include such plan on
19 the institution’s website.

20 “(3) EDUCATIONAL GUARANTEE.—A qualified
21 institution of higher education (as defined in section
22 4968(e)(1)) shall not be treated as described in sub-
23 section (c)(3) unless—

24 “(A) at least 20 percent of the students of
25 such institution are eligible to receive a Federal

1 Pell Grant under section 401 of the Higher
 2 Education Act of 1965 for the academic year
 3 beginning in the taxable year, and

4 “(B) at least 50 percent of the students of
 5 such institution have household income for the
 6 taxable year that does not exceed 600 percent
 7 of an amount equal to the poverty line for a
 8 family of the size involved (determined under
 9 rules similar to the rules of section
 10 4968(e)(8)).”.

11 (d) CLERICAL AMENDMENT.—The table of sub-
 12 chapters for chapter 42 of such Code is amended by add-
 13 ing at the end the following new item:

“SUBCHAPTER H. FAILURE BY CERTAIN INSTITUTIONS OF HIGHER EDUCATION
 TO MAKE CERTAIN PAYOUTS”.

14 (e) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to taxable years beginning after
 16 the date of enactment of this Act.

17 **SEC. 3. EXCISE TAXES ON RESTRICTED DONATIONS TO**
 18 **HIGHER EDUCATION INSTITUTIONS.**

19 (a) DONOR ADVISED FUNDS.—Section 4966 of the
 20 Internal Revenue Code of 1986 is amended by adding at
 21 the end the following new subsection:

22 “(e) SPECIAL RULE FOR UNRESTRICTED DONATIONS
 23 TO QUALIFIED INSTITUTIONS OF HIGHER EDUCATION.—

1 “(1) IN GENERAL.—In the case of any re-
2 stricted distribution from a donor advised fund to an
3 institution of higher education (as defined in section
4 170(p)(2))—

5 “(A) such distributions shall be treated as
6 a taxable distribution for purposes of this sec-
7 tion, and

8 “(B) subsection (a) shall be applied by
9 substituting ‘100 percent’ for ‘20 percent’.

10 “(2) RESTRICTED DISTRIBUTION.—For pur-
11 poses of this subsection, the term ‘restricted dis-
12 tribution’ means a distribution restricted by the
13 fund to a use other than scholarships.”.

14 (b) PRIVATE FOUNDATIONS.—Section 4945 of such
15 Code is amended by adding at the end the following new
16 subsection:

17 “(j) SPECIAL RULE FOR UNRESTRICTED DONATIONS
18 TO QUALIFIED INSTITUTIONS OF HIGHER EDUCATION.—

19 “(1) IN GENERAL.—In the case of any re-
20 stricted distribution from a private foundation to an
21 institution of higher education (as defined in section
22 170(p)(2))—

23 “(A) such distribution shall be treated as
24 a taxable expenditure for purposes of this sec-
25 tion, and

1 “(B) subsection (a)(1) shall be applied by
2 substituting ‘100 percent’ for ‘20 percent’.

3 “(2) RESTRICTED DISTRIBUTION.—For pur-
4 poses of this subsection, the term ‘restricted dis-
5 tribution’ means a distribution restricted by the
6 foundation to a use other than scholarships.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to distributions after the date of
9 the enactment of this Act.

10 **SEC. 4. REPORT ON NET TUITION FOR CERTAIN INSTITU-**
11 **TIONS OF HIGHER EDUCATION.**

12 (a) IN GENERAL.—Subpart B of part III of sub-
13 chapter A of chapter 61 of the Internal Revenue Code of
14 1986 is amended by adding at the end the following new
15 section:

16 **“SEC. 6050X. DISCLOSURES REQUIRED WITH RESPECT TO**
17 **NET TUITION.**

18 “(a) IN GENERAL.—Each institution of higher edu-
19 cation (as defined in section 170(p)(2)) shall for the tax-
20 able year make a return to the Secretary which contains—

21 “(1) the amount of the excess (if any), for each
22 working-family student (as defined in such section)
23 at such institution, of—

24 “(A) the cost of attendance at such institu-
25 tion (as defined in section 472), over

1 “(B) the grants from such institution re-
2 ceived by such student, and

3 “(2) the number of students enrolled at such
4 institution on the first day of the taxable year.

5 “(b) FORM AND MANNER.—Such return shall be
6 made at such time, and in such form and manner, as the
7 Secretary may by regulation prescribe.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 for subpart B of part III of subchapter A of chapter 61
10 of such Code is amended by adding at the end the fol-
11 lowing new item:

 “Sec. 6050X. Disclosures required with respect to net tuition.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 the date of the enactment of this Act.

15 **SEC. 5. FEDERAL PELL GRANT PROGRAM FUNDING.**

16 Section 401(b)(7)(iv) of the Higher Education Act of
17 1965 (20 U.S.C. 1070a(b)(7)(iv))—

18 (1) in subclause (XI), by striking the period at
19 the end and inserting a comma; and

20 (2) by inserting at the end the following flush
21 left text: “, which, beginning with fiscal year 2019,
22 for each fiscal year for which amounts made are
23 made available pursuant to subclauses (IX) through
24 (XI), the amount made available for the fiscal year
25 shall be increased by an amount equal to the in-

1 crease in receipts to the Treasury during the pre-
2 ceding fiscal year attributable to the taxes imposed
3 by section 4968 of the Internal Revenue Code of
4 1986.”.

5 **SEC. 6. CONSUMER INFORMATION.**

6 Section 132(i)(1) of the Higher Education Act of
7 1965 (20 U.S.C. 1015a(i)(1)) is amended by adding at
8 the end the following:

9 “(AA) Total number of employees of the
10 institution in charge of managing or advising
11 the endowment or investments of the institu-
12 tion.

13 “(BB) Annual salary and performance-
14 based compensation of each individual employed
15 by the institution that is involved in manage-
16 ment or advising the endowment.

17 “(CC) The total expenses for managing the
18 endowment of the institution, disaggregated—

19 “(i) by office space and equipment,
20 and any other expenses not described in
21 clause (ii); and

22 “(ii) by outside management and per-
23 formance fees by category.

1 “(DD) Total institutional aid provided to
2 students by the institution and the total
3 amount of such aid, disaggregated—

4 “(i) by institutional aid provided using
5 endowment funds;

6 “(ii) by institutional aid provided
7 using non-endowment funds;

8 “(iii) by the type of such aid (such as
9 merit, need, or athletic); and

10 “(iv) by the income categories de-
11 scribed in paragraph (6).

12 “(EE) The number of students whose par-
13 ents and grandparents have provided the insti-
14 tution—

15 “(i) more than \$100,000 during the
16 4-year period beginning on the day before
17 the student’s first date of attendance
18 through the graduation, transfer, or expul-
19 sion of the student; or

20 “(ii) more than \$500,000 in the ag-
21 gregate.

22 “(FF) The number of students whose par-
23 ent or grandparent (biological, custodial, step-
24 parent etc) graduated from the institution.”.

○