

115TH CONGRESS
1ST SESSION

H. R. 823

To amend the Internal Revenue Code of 1986 to extend and modify the American Opportunity Tax Credit, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2017

Mr. DOGGETT (for himself, Ms. PELOSI, Mr. NEAL, Ms. BROWNLEY of California, Mrs. BUSTOS, Mr. BUTTERFIELD, Mr. CARTWRIGHT, Mr. CASTRO of Texas, Ms. JUDY CHU of California, Mr. CICILLINE, Mr. COHEN, Mr. CONYERS, Mr. CROWLEY, Mr. CUELLAR, Mr. CUMMINGS, Mr. DANNY K. DAVIS of Illinois, Mr. DEFazio, Mr. DELANEY, Ms. DELAURO, Ms. DELBENE, Mr. DEUTCH, Mr. ELLISON, Ms. ESTY, Mr. GALLEGRO, Mr. GARAMENDI, Mr. HASTINGS, Mr. HIGGINS of New York, Mr. JEFFRIES, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JOHNSON of Georgia, Ms. KELLY of Illinois, Mr. KENNEDY, Mr. KILDEE, Mr. KIND, Mr. LANGEVIN, Mr. LARSON of Connecticut, Ms. LEE, Mr. LEVIN, Mr. TED LIEU of California, Mr. LOEBSACK, Ms. MICHELLE LUJAN GRISHAM of New Mexico, Mr. LYNCH, Ms. MCCOLLUM, Mr. MCGOVERN, Mr. MEEKS, Ms. MENG, Ms. MOORE, Mr. NADLER, Mrs. NAPOLITANO, Mr. BRADY of Pennsylvania, Ms. NORTON, Mr. PALLONE, Mr. PASCRELL, Mr. POCAN, Mr. PRICE of North Carolina, Miss RICE of New York, Ms. ROYBAL-ALLARD, Mr. RYAN of Ohio, Mr. SARBANES, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. HOYER, Mr. SHERMAN, Mr. SWALWELL of California, Mr. TAKANO, Mr. THOMPSON of California, Ms. TITUS, Mrs. TORRES, Mr. VEASEY, Mrs. WATSON COLEMAN, Mr. BLUMENAUER, Mr. HECK, Ms. SLAUGHTER, Ms. KAPTUR, Ms. SHEA-PORTER, Ms. HANABUSA, and Mr. PAYNE) 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 extend and modify the American Opportunity Tax Credit, 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 “Expand American
5 Educational Opportunity Act of 2017”.

6 **SEC. 2. EXTENSION AND MODIFICATION OF AMERICAN OP-**
7 **PORTUNITY TAX CREDIT.**

8 (a) IN GENERAL.—Section 25A of the Internal Rev-
9 enue Code of 1986 is amended to read as follows:

10 **“SEC. 25A. AMERICAN OPPORTUNITY TAX CREDIT.**

11 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
12 dividual who is an eligible student for any taxable year,
13 there shall be allowed as a credit against the tax imposed
14 by this chapter for such taxable year the amount deter-
15 mined under subsection (b) with respect to such indi-
16 vidual.

17 “(b) AMOUNT OF CREDIT.—

18 “(1) STUDENT ENROLLED AT LEAST ½ TIME.—

19 In the case of an eligible student who is carrying at
20 least ½ the normal full-time workload for the course
21 of study the student is pursuing, the amount deter-
22 mined under this subsection with respect to such in-
23 dividual is the sum of—

24 “(A) 100 percent of so much of the quali-
25 fied tuition and related expenses paid by the

1 taxpayer during the taxable year (for education
2 furnished to the eligible student during any
3 academic period beginning in such taxable year)
4 as does not exceed \$2,000, plus

5 “(B) 25 percent of such expenses so paid
6 as exceeds \$2,000 but does not exceed \$4,000.

7 “(2) OTHER STUDENTS.—In the case of an eli-
8 gible student not described in paragraph (1), the
9 amount determined under this subsection with re-
10 spect to such individual is 25 percent of so much of
11 the qualified tuition and related expenses paid by
12 the taxpayer during the taxable year (for education
13 furnished to the eligible student during any aca-
14 demic period beginning in such taxable year) as does
15 not exceed \$10,000.

16 “(c) LIMITATION BASED ON MODIFIED ADJUSTED
17 GROSS INCOME.—

18 “(1) IN GENERAL.—The amount which would
19 (but for this paragraph) be taken into account under
20 this section for the taxable year shall be reduced
21 (but not below zero) by the amount determined
22 under paragraph (2).

23 “(2) AMOUNT OF REDUCTION.—The amount
24 determined under this paragraph is the amount

1 which bears the same ratio to the amount which
2 would be so taken into account as—

3 “(A) the excess of—

4 “(i) the taxpayer’s modified adjusted
5 gross income for such taxable year, over

6 “(ii) \$80,000 (\$160,000 in the case of
7 a joint return), bears to

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

10 “(3) MODIFIED ADJUSTED GROSS INCOME.—

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

16 “(d) OTHER LIMITATIONS AND SPECIAL RULES.—

17 For purposes of this section:

18 “(1) LIFETIME DOLLAR LIMITATION.—In the
19 case of qualified tuition and related expenses with
20 respect to any eligible student, the aggregate
21 amount of the credits allowed in the taxable year
22 and any prior taxable year for such eligible student
23 (whether beginning before or after Expand American
24 Educational Opportunity Act of 2017) shall not ex-

1 ceed \$15,000, determined without regard to wheth-
2 er—

3 “(A) such credits are claimed on the re-
4 turn of tax filed by the eligible student or by
5 another taxpayer, or

6 “(B) such expenses are treated as paid by
7 the eligible student or by another taxpayer.

8 If, in any taxable year, the aggregate amount of
9 such credits equals or exceeds \$15,000, the amount
10 allowed as a credit under subsection (a) in any sub-
11 sequent taxable year with respect to such student
12 shall be zero.

13 “(2) IDENTIFICATION REQUIREMENTS.—

14 “(A) STUDENTS.—

15 “(i) IN GENERAL.—No credit shall be
16 allowed under this section to a taxpayer
17 with respect to the qualified tuition and re-
18 lated expenses of an eligible student unless
19 the taxpayer includes the name and tax-
20 payer identification number of such eligible
21 student on the return of tax for the taxable
22 year.

23 “(ii) ISSUANCE.—The requirements of
24 clause (i) shall not be treated as met un-
25 less the individual’s taxpayer identification

1 number was issued on or before the due
2 date for filing the return of tax for the tax-
3 able year.

4 “(B) TAXPAYER.—No credit shall be al-
5 lowed under this section if the identifying num-
6 ber of the taxpayer was issued after the due
7 date for filing the return for the taxable year.

8 “(C) INSTITUTION.—No credit shall be al-
9 lowed under this section unless the taxpayer in-
10 cludes the employer identification number of
11 any institution to which qualified tuition and
12 related expenses were paid with respect to the
13 individual.

14 “(3) ADJUSTMENT FOR CERTAIN SCHOLAR-
15 SHIPS, ETC.—

16 “(A) IN GENERAL.—The amount of quali-
17 fied tuition and related expenses otherwise
18 taken into account under this section with re-
19 spect to an individual for an academic period
20 shall be reduced (before the application of sub-
21 sections (b) and (c)) by the sum of any
22 amounts paid for the benefit of such individual
23 which are allocable to such period as—

1 “(i) a qualified scholarship which is
2 excludable from gross income under section
3 117,

4 “(ii) an educational assistance allow-
5 ance under chapter 30, 31, 32, 34, or 35
6 of title 38, United States Code, or under
7 chapter 1606 of title 10, United States
8 Code, and

9 “(iii) a payment (other than a gift,
10 bequest, devise, or inheritance within the
11 meaning of section 102(a)) for such indi-
12 vidual’s educational expenses, or attrib-
13 utable to such individual’s enrollment at an
14 eligible educational institution, which is ex-
15 cludable from gross income under any law
16 of the United States.

17 “(B) COORDINATION WITH PELL GRANTS
18 NOT USED FOR QUALIFIED TUITION AND RE-
19 LATED EXPENSES.—Any amount determined
20 with respect to an individual under subpara-
21 graph (A) which is attributable to a Federal
22 Pell Grant under section 401 of the Higher
23 Education Act of 1965 shall be reduced (but
24 not below zero) by the amount of the expenses
25 (other than qualified tuition and related ex-

1 penses) which are taken into account in deter-
2 mining the cost of attendance (as defined in
3 section 472 of the Higher Education Act of
4 1965, as in effect on the date of the enactment
5 of the Expand American Educational Oppor-
6 tunity Act of 2017) of such individual at an eli-
7 gible educational institution for the academic
8 period for which the credit under this section is
9 being determined.

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

15 “(A) no credit shall be allowed under this
16 section to such individual for such individual’s
17 taxable year, and

18 “(B) qualified tuition and related expenses
19 paid by such individual during such individual’s
20 taxable year shall be treated for purposes of
21 this section as paid by such other taxpayer.

22 “(5) TREATMENT OF CERTAIN PREPAY-
23 MENTS.—If qualified tuition and related expenses
24 are paid by the taxpayer during a taxable year for
25 an academic period which begins during the first 3

1 months following such taxable year, such academic
2 period shall be treated for purposes of this section
3 as beginning during such taxable year.

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

8 “(7) NO CREDIT FOR MARRIED INDIVIDUALS
9 FILING SEPARATE RETURNS.—If the taxpayer is a
10 married individual (within the meaning of section
11 7703), this section shall apply only if the taxpayer
12 and the taxpayer’s spouse file a joint return for the
13 taxable year.

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

20 “(e) ELECTION NOT TO HAVE SECTION APPLY.—A
21 taxpayer may elect not to have this section apply with re-
22 spect to the qualified tuition and related expenses of an
23 individual for any taxable year.

24 “(f) DEFINITIONS.—For purposes of this section:

1 “(1) ELIGIBLE STUDENT.—The term ‘eligible
2 student’ means, with respect to any taxable year, an
3 individual who—

4 “(A) is enrolled for at least one academic
5 period which begins during such taxable year at
6 an eligible educational institution, and

7 “(B) meets the requirements of section
8 484(a)(1) of the Higher Education Act of 1965,
9 as in effect on the date of the enactment of the
10 Expand American Educational Opportunity Act
11 of 2017.

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

14 “(A) IN GENERAL.—The term ‘qualified
15 tuition and related expenses’ means tuition,
16 fees, and course materials required for the en-
17 rollment or attendance of—

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, as in effect
17 on the date of the enactment of the Expand
18 American Educational Opportunity Act of
19 2017, and

20 “(B) which is eligible to participate in a
21 program under title IV of such Act.

22 “(g) PORTION OF CREDIT REFUNDABLE.—The less-
23 er of—

24 “(1) the credit allowed under this section for a
25 taxable year (determined after application of sub-

1 sections (c)(1) and (d) and without regard to this
2 subsection and section 26(a)(2), as the case may
3 be), or

4 “(2) \$1,500,
5 shall be treated as a credit allowable under subpart C (and
6 not allowed under this section). The preceding sentence
7 shall not apply to any taxpayer for any taxable year if
8 such taxpayer is a child to whom subsection (g) of section
9 1 applies for such taxable year.

10 “(h) RESTRICTIONS ON TAXPAYERS WHO IMPROP-
11 ERLY CLAIMED CREDIT IN PRIOR YEAR.—

12 “(1) TAXPAYERS MAKING PRIOR FRAUDULENT
13 OR RECKLESS CLAIMS.—

14 “(A) IN GENERAL.—No credit shall be al-
15 lowed under this section for any taxable year in
16 the disallowance period.

17 “(B) DISALLOWANCE PERIOD.—For pur-
18 poses of clause (i), the disallowance period is—

19 “(i) the period of 10 taxable years
20 after the most recent taxable year for
21 which there was a final determination that
22 the taxpayer’s claim of credit under this
23 section was due to fraud, and

24 “(ii) the period of 2 taxable years
25 after the most recent taxable year for

1 which there was a final determination that
2 the taxpayer’s claim of credit under this
3 section was due to reckless or intentional
4 disregard of rules and regulations (but not
5 due to fraud).

6 “(2) TAXPAYERS MAKING IMPROPER PRIOR
7 CLAIMS.—In the case of a taxpayer who is denied
8 credit under this section for any taxable year as a
9 result of the deficiency procedures under subchapter
10 B of chapter 63, no credit shall be allowed under
11 this section for any subsequent taxable year unless
12 the taxpayer provides such information as the Sec-
13 retary may require to demonstrate eligibility for
14 such credit.

15 “(i) INFLATION ADJUSTMENT.—In the case of any
16 taxable year beginning in a calendar year after 2018, each
17 dollar amount in subsections (b) and (c)(2), and (d)(1)
18 shall be increased by an amount equal to—

19 “(1) such dollar amount, multiplied by

20 “(2) the cost-of-living adjustment determined
21 under section 1(f)(3) for the calendar year in which
22 the taxable year begins, determined by substituting
23 ‘calendar year 2017’ for ‘calendar year 1992’ in sub-
24 paragraph (B) thereof.

1 In the case of subsections (b) and (d)(1), any increase de-
2 termined under the preceding sentence shall be rounded
3 to the nearest multiple of \$50. In the case of subsection
4 (c)(2), any increase determined under the preceding sen-
5 tence shall be rounded to the nearest multiple of \$500.

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

13 (b) RETENTION OF LIMITATION.—

14 (1) IN GENERAL.—Subparagraph (D) of section
15 25A(b)(2) of the Internal Revenue Code of 1986, as
16 in effect before the enactment of the Expand Amer-
17 ican Educational Opportunity Act of 2017 hereby
18 transferred to section 25A of such Code, as amended
19 by subsection (a), and is inserted as a new sub-
20 section (d)(9) of section 25A, as so amended.

21 (2) CONFORMING AMENDMENT.—Paragraph (9)
22 of section 25A(d) of such Code, as transferred and
23 inserted by paragraph (1), is amended by striking
24 “The Hope Scholarship Credit under subsection

1 (a)(1)” and inserting “The credit under subsection
2 (a)”.

3 (c) CONFORMING AMENDMENTS.—

4 (1) Subparagraph (B) of section 72(t)(7) of
5 such Code is amended by striking “25A(g)(2)” and
6 inserting “25A(d)(3)”.

7 (2) Paragraph (2) of section 221(d) of such
8 Code is amended—

9 (A) by striking “25A(g)(2)” in subpara-
10 graph (B) and inserting “25A(d)(3)”, and

11 (B) by striking “25A(f)(2)” and inserting
12 “25A(f)(3)”.

13 (3) Paragraph (3) of section 221(d) of such
14 Code is amended by striking “25A(b)(3)” and in-
15 serting “25A(f)(1) (but only with respect to a stu-
16 dent who is carrying at least $\frac{1}{2}$ the normal full-time
17 workload for the course of study the student is pur-
18 suing)”.

19 (4) Clause (v) of section 529(c)(3)(B) of such
20 Code is amended—

21 (A) by striking “25A(g)(2)” in subclause
22 (I) and inserting “25A(d)(3)”, and

23 (B) by striking “HOPE AND LIFETIME
24 LEARNING CREDITS” in the heading and

1 inserting “AMERICAN OPPORTUNITY
2 CREDIT”.

3 (5) Clause (i) of section 529(e)(3)(B) of such
4 Code is amended by striking “25A(b)(3)” and in-
5 serting “25A(f)(1) (but only with respect to a stu-
6 dent who is carrying at least ½ the normal full-time
7 workload for the course of study the student is pur-
8 suing)”.

9 (6) Subparagraph (C) of section 530(d)(2) of
10 such Code is amended—

11 (A) by striking “25A(g)(2)” in clause (i)(I)
12 and inserting “25A(d)(3)”, and

13 (B) by striking “HOPE AND LIFETIME
14 LEARNING CREDITS” in the heading and
15 inserting “AMERICAN OPPORTUNITY
16 CREDIT”.

17 (7) Clause (iii) of section 530(d)(4)(B) of such
18 Code is amended by striking “25A(g)(2)” and in-
19 serting “25A(d)(3)”.

20 (8) Section 14000 of such Code is amended—

21 (A) by striking “25A(f)(2)” and inserting
22 “25A(f)(3)”,

23 (B) by inserting “(as in effect on the date
24 of the enactment of this section)” after
25 “25A(b)(1)” in paragraph (2), and

1 (C) by inserting “(as in effect on the date
2 of the enactment of this section)” after
3 “25A(c)(1)” in paragraph (3).

4 (9) Subsection (e) of section 6050S of such
5 Code is amended by striking “subsection (g)(2)” and
6 inserting “subsection (d)(3)”.

7 (10) Subparagraph (A) of section 6211(b)(4) of
8 such Code is amended by striking “subsection
9 (i)(6)” and inserting “subsection (g)”.

10 (11) Section 6213(g)(2) of such Code is amend-
11 ed—

12 (A) in subparagraph (J), by striking
13 “25A(g)(1)” and inserting “25A(d)(2)”, and

14 (B) in subparagraph (Q), by striking
15 “25A(i)(8)(B)” and inserting “25A(h)(2)” and
16 by striking “25A(i)” and inserting “25A”.

17 (12) Subsection (g) of section 6695(g) of such
18 Code is amended by striking “25A(a)(1)” and in-
19 serting “25A(a)”.

20 (d) CLERICAL AMENDMENT.—The item relating to
21 section 25A in the table of sections for subpart A of part
22 IV of subchapter A of chapter 1 of the Internal Revenue
23 Code of 1986 is amended to read as follows:

“Sec. 25A. American Opportunity Tax Credit.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2017.

4 **SEC. 3. EXPANSION OF PELL GRANT EXCLUSION FROM**
5 **GROSS INCOME.**

6 (a) IN GENERAL.—Paragraph (1) of section 117(b)
7 of the Internal Revenue Code of 1986 is amended by strik-
8 ing “received by an individual” and all that follows and
9 inserting “received by an individual—

10 “(1) as a scholarship or fellowship grant to the
11 extent the individual establishes that, in accordance
12 with the conditions of the grant, such amount was
13 used for qualified tuition and related expenses, or

14 “(2) as a Federal Pell Grant under section 401
15 of the Higher Education Act of 1965 (as in effect
16 on the date of the enactment of the Expand Amer-
17 ican Educational Opportunity Act of 2017).”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 this section shall apply to taxable years beginning after
20 December 31, 2016.

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