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(Original Signature of Member)

114TH CONGRESS  
2D SESSION

# H. R.

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To amend the Internal Revenue Code of 1986 to exclude employer contributions to 529 plans from gross income and employment taxes and to allow a deduction for individual contributions to such plans.

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## IN THE HOUSE OF REPRESENTATIVES

Mr. POLIQUIN introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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# A BILL

To amend the Internal Revenue Code of 1986 to exclude employer contributions to 529 plans from gross income and employment taxes and to allow a deduction for individual contributions to such plans.

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 “Help All Americans  
5 Save for College Act of 2016”.

1 **SEC. 2. TAX TREATMENT OF CONTRIBUTIONS TO 529**  
2 **PLANS.**

3 (a) EXCLUSION FROM GROSS INCOME FOR EM-  
4 PLOYER CONTRIBUTIONS.—

5 (1) IN GENERAL.—Part III of subchapter B of  
6 chapter 1 of the Internal Revenue Code of 1986 is  
7 amended by inserting after section 139E the fol-  
8 lowing new section:

9 **“SEC. 139F. EMPLOYER CONTRIBUTIONS TO 529 PLAN OR**  
10 **ABLE ACCOUNT.**

11 “(a) IN GENERAL.—In the case of an individual who  
12 is a qualified account owner, gross income shall not in-  
13 clude the amount of any contribution to such account dur-  
14 ing the taxable year by the employer of the account owner.

15 “(b) LIMITATION.—The amount exempt from gross  
16 income by subsection (a) for a taxable year shall not ex-  
17 ceed the lesser of—

18 “(1) an amount equal to the compensation in-  
19 cludible in the individual’s gross income for such  
20 taxable year, or

21 “(2) \$5,000 (\$10,000 in the case of a joint re-  
22 turn) for each dependent who of the taxpayer is the  
23 designated beneficiary of an account under section  
24 529.

25 “(c) QUALIFIED ACCOUNT OWNER.—For purposes of  
26 this section, the term ‘qualified account owner’ means—

1           “(1) in the case of an account in connection  
2 with a qualified tuition program, the account owner  
3 of an account of a designated beneficiary under sec-  
4 tion 529, and

5           “(2) in the case of an ABLE account, the des-  
6 ignated beneficiary in connection with the ABLE ac-  
7 count under section 529A(e)(3).”.

8           (2) CAFETERIA PLAN DOES NOT INCLUDE EM-  
9 PLOYER CONTRIBUTIONS TO 529 PLANS OR ABLE AC-  
10 COUNTS.—Section 125(d)(2) of such Code is amend-  
11 ed by adding at the end the following:

12           “(E) EXCEPTION FOR CONTRIBUTIONS TO  
13 529 PLAN AND ABLE ACCOUNTS.—Subpara-  
14 graph (A) shall not apply to a plan to the ex-  
15 tent of amounts which a covered employee may  
16 elect to have the employer pay as contributions  
17 to an account under section 529 or 529A.”.

18           (3) CLERICAL AMENDMENT.—The table of sec-  
19 tions for part III of subchapter B of chapter 1 of  
20 such Code is amended by inserting after the item re-  
21 lating to section 139E the following new item:

“Sec. 139F. Employer contributions to 529 plan or ABLE account.”.

22           (b) FEDERAL INSURANCE CONTRIBUTIONS.—

23           (1) WAGES.—Section 3121(a) of such Code is  
24 amended by striking “or” at the end of paragraph  
25 (22), by striking the period at the end of paragraph

1 (23) and inserting “; or”, and by inserting after  
2 paragraph (23) the following:

3 “(24) the amount of any contribution made to  
4 or on behalf of an employee if at the time of such  
5 contribution it is reasonable to believe that the em-  
6 ployee will be able to exclude such contribution from  
7 income under section 139F.”.

8 (2) NET EARNINGS FROM SELF-EMPLOY-  
9 MENT.—Section 1402(a) of such Code is amended  
10 by striking “and” at the end of paragraph (16), by  
11 striking the period at the end of paragraph (17) and  
12 inserting “; and”, and inserting after paragraph  
13 (17) the following:

14 “(18) there shall be excluded any contribution  
15 made to or on behalf of an employee that is not in-  
16 cludible in gross income of the employee under sec-  
17 tion 139F.”.

18 (3) CONFORMING AMENDMENTS TO SOCIAL SE-  
19 CURITY ACT.—

20 (A) WAGES.—Section 209(a) of the Social  
21 Security Act (42 U.S.C. 409(a)) is amended by  
22 striking “or” at the end of paragraph (19) and  
23 inserting a semicolon, by striking the period at  
24 the end of paragraph (20) and inserting “; or”,

1           and by inserting after paragraph (20) the fol-  
2           lowing:

3           “(21) The amount of any contribution made to  
4           or on behalf of an employee that is not includible in  
5           gross income of the employee under section 139F of  
6           the Internal Revenue Code of 1986.”.

7                   (B) NET EARNINGS FROM SELF-EMPLOY-  
8                   MENT.—Section 211(a) of the Social Security  
9                   Act (42 U.S.C. 411(a)) is amended by striking  
10                   “and” at the end of paragraph (15), by striking  
11                   the period at the end of paragraph (16) and in-  
12                   serting “; and”, and inserting after paragraph  
13                   (16) the following:

14           “(17) There shall be excluded any contribution  
15           made to or on behalf of an employee that is not in-  
16           cludible in gross income of the employee under sec-  
17           tion 139F of the Internal Revenue Code of 1986.”.

18           (c) RAILROAD RETIREMENT.—Section 3231(e) of  
19           such Code is amended by adding at the end the following:

20           “(13) EMPLOYER CONTRIBUTIONS TO 529 PLAN  
21           OR ABLE ACCOUNT.—The term compensation shall  
22           not include any contribution made to or on behalf of  
23           an employee that is not includible in gross income of  
24           the employee under section 139F.”.

25           (d) DEDUCTION FOR INDIVIDUAL CONTRIBUTIONS.—



1 (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to contributions made during tax-  
3 able years beginning after the date of the enactment of  
4 this Act.

5 **SEC. 3. ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED**  
6 **FOR QUALIFIED PURPOSES.**

7 (a) QUALIFIED TUITION PROGRAMS.—

8 (1) IN GENERAL.—The first sentence of section  
9 529(c)(6) of the Internal Revenue Code of 1986 is  
10 amended by striking the period at the end and in-  
11 sserting “, except that the rate of such tax shall be  
12 determined under subparagraph (B) of this para-  
13 graph.”.

14 (2) RATE.—Paragraph (6) of section 529(c) of  
15 such Code, as amended by subsection (a), is amend-  
16 ed—

17 (A) by striking “The tax” and inserting

18 “(A) IN GENERAL.—The tax”, and

19 (B) by adding at the end the following:

20 “(B) RATE.—For purposes of subpara-  
21 graph (A), the tax rate determined under this  
22 subparagraph is the greater of—

23 “(i) 10 percent, and

24 “(ii) the highest rate of income tax  
25 applicable to such person under this title.”.

1 (b) QUALIFIED ABLE PROGRAMS.—

2 (1) IN GENERAL.—Subparagraph (A) of section  
3 529A(c)(3) of the Internal Revenue Code of 1986 is  
4 amended by striking “10 percent” and inserting  
5 “the applicable percentage”.

6 (2) APPLICABLE PERCENTAGE.—Paragraph (3)  
7 of section 529A(c) of such Code is amended by add-  
8 ing at the end the following:

9 “(D) APPLICABLE PERCENTAGE.—For  
10 purposes of this paragraph, the term ‘applicable  
11 percentage’ means the greater of—

12 “(i) 10 percent, and

13 “(ii) the highest rate of income tax  
14 applicable to such person under this title.”.

15 (c) EFFECTIVE DATE.—The amendments made by  
16 this section shall apply to distributions made during tax-  
17 able years beginning after the date of the enactment of  
18 this Act.