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 Debt and Unfair Costs of Education Act of 2018” or the “REDUCE Act of 2018”.

115TH CONGRESS 2D SESSION  H. R. 5916
SEC. 2. EXCISE TAX ON UNDISTRIBUTED REQUIRED PAYMENTS FROM ENDOWMENTS OF CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

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

“Subchapter H—Failure by Certain Institutions of Higher Education to Make Certain Payouts

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

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

SEC. 4968. EXCISE TAX ON UNDISTRIBUTED REQUIRED PAYMENTS FROM ENDOWMENTS OF CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

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

“(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed under subsection (a) on an undistributed required payout, if any portion of such undistributed required payout exists—

“(1) on the date which is 1 year after the date on which the initial tax was imposed, there is hereby
imposed an additional tax equal to 30 percent of
such undistributed required payout as of the date
such tax is imposed, and

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

“(c) Suspension of Deductible Contributions.—

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

“(2) Contribution suspension period.—
For purposes of this subsection, the term ‘contri-
bution suspension period’ means, with respect to any
qualified institution of higher education, the period
beginning on the day after a return under section
6033 is filed for a taxable year for which there is
an undistributed required payout, and ending on the
first day no portion of such undistributed required
payout exists.
“(3) Notice of Suspension.—If the deductibility of contributions is suspended under this subsection, the Internal Revenue Service shall update the listings of tax-exempt organizations, and the Internal Revenue Service and such organization shall publish appropriate notice to the public of such suspension and of the fact that contributions to such organization are not deductible during the period of such suspension.

“(d) Special Rule for Complete Payment for Working-Family Students.—With respect to a qualified institution of higher education for a taxable year, if, during the one-year period preceding the date on which an initial tax under subsection (a) would (but for this subsection) be imposed on the undistributed required payout for such taxable year, each degree-seeking working-family student receives an amount of grants for such period that is not less than the cost of attendance for such student at such institution during such period, no tax shall be imposed under this section on the undistributed required payout for such taxable year.

“(e) Definitions and Special Rule.—For purposes of this section—

“(1) Qualified Institution of Higher Education.—
“(A) In general.—The term ‘qualified institution of higher education’ means an eligible educational institution (as defined in section 25A(f)(2))—

“(i) which had at least 500 tuition-paying students during the preceding taxable year,

“(ii) more than 50 percent of the tuition-paying students of which are located in the United States,

“(iii) the aggregate fair market value of the assets of which at the end of the preceding taxable year (other than those assets which are used directly in carrying out the institution’s exempt purpose) is at least $500,000 per student of the institution, and

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

“(B) Students.—For purposes of subparagraph (A), the number of students of an 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
which a tax is imposed under subsection (a) or (b), the amount by which—

“(i) the required payout for such taxable year, exceeds

“(ii) the grants to working-family students made by such institution before such date out of such required payout.

“(B) De minimis exception.—If an undistributed required payout with respect to a qualified institution of higher education for a taxable year is not more than 1 percent of the required payout with respect to such institution for such taxable year (or, if less, $250,000), subsections (a), (b), and (c) shall not apply with respect to such undistributed required payout.

“(C) Progressive grant requirement.—A grant out of a required payout for a working-family student for an academic period shall only qualify for the purposes of subparagraph (A)(ii) to the extent that the amount of grants by such institution for such student for such academic period is not more than the least amount of grants given by such institution out of such required payout for such academic pe-
period to any degree-seeking working-family student with a lower household income than such student. For purposes of the preceding sentence, grant amounts shall be determined on a per credit basis.

“(3) REQUIRED PAYOUT.—The term ‘required payout’ means, with respect to any qualified institution of higher education for any taxable year, an amount equal to 25 percent of the average net investment income with respect to such institution for such taxable year and the preceding 6 taxable years.

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

“(A) the aggregate fair market value of all endowments of such institution (determined as of the close of the preceding taxable year), minus any contributions to such endowments received during such preceding taxable year, plus any spending from such endowments during such preceding taxable year, over

“(B) the aggregate fair market value of all endowments of such institution (determined as
of the close of the second preceding taxable year).

“(5) Grant for a working-family student.—

“(A) In general.—The term ‘grant for a working-family student’ means, with respect to a qualified institution of higher education, a grant by such institution for all or a portion of the cost of attendance to a working-family student attending such institution.

“(B) Working-family student.—The term ‘working-family student’ means, with respect to a qualified institution of higher education for a taxable year, an individual—

“(i) who is enrolled (part-time or full-time) as an undergraduate student in such institution during an academic period beginning in such taxable year; and

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

“(6) Cost of attendance.—The term ‘cost of attendance’, with respect to a student attending a qualified institution of higher education for an aca-
academic period, has the meaning given such term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll), less any grants for cost of attendance (as defined in such section) received by such student from any person other than such institution during such academic period.

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

“(8) FAMILY SIZE; HOUSEHOLD INCOME; POVERTY LINE.—The terms ‘family size’, ‘household income’, and ‘poverty line’ have the respective meanings given such terms in section 36B(d). In the case of any student with respect to whom a deduction is allowable under section 151 to another taxpayer, the terms ‘family size’ and ‘household income’ shall be determined with respect to such other taxpayer.

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

“(A) IN GENERAL.—For purposes of paragraphs (1)(A)(iii) and (4), assets and net investment income of any related organization
with respect to an educational institution shall be treated as assets and net investment income, respectively, of the educational institution, except that—

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

“(ii) unless such organization is controlled by such institution or is described in section 509(a)(3) with respect to such institution for the taxable year, assets and net investment income which are not intended or available for the use or benefit of the educational institution shall not be taken into account.

“(B) RELATED ORGANIZATION.—For purposes of this subsection, the term ‘related organization’ means, with respect to an educational institution, any organization which—

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

“(ii) is controlled by one or more persons which also control such institution, or

“(iii) is a supported organization (as defined in section 509(f)(3)), or an organi-
zation described in section 509(a)(3), during the taxable year with respect to such institution.”.

(b) Special Rules Relating to Deduction of Restricted and Unrestricted Gifts.—Section 170 of such Code is amended—

(1) by redesignating subsection (p) as subsection (q); and

(2) by inserting after subsection (o) the following new subsection:

“(p) Special Rule for Gifts to Institutions of Higher Education.—

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

“(A) if the use of any such amounts are restricted by the taxpayer to a use other than scholarships, no deduction shall be allowed for so much of the aggregate of such restricted contributions for the taxable year as exceeds $5,000,

“(B) if the use of such amounts are unrestricted, the amount taken into account under this section for the taxable year shall include an
allowance equal to 25 percent of the aggregate amount of such unrestricted contributions, and

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

Any such allowance shall be taken into account under this section in the same manner as the contribution with respect to which such allowance was determined, except that the limitation with respect to an individual for any taxable year under subsection (b)(1)(A) shall be increased by the amount of any allowances allowed under paragraphs (B) or (C) for such taxable year.

“(2) Institution of Higher Education.—For purposes of this subsection, the term ‘educational institution’ means an institution that is described in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).”.

(c) Requirements for Tax Exempt Status of Qualified Institutions of Higher Education.—
Section 501 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(s) ADDITIONAL REQUIREMENTS FOR INSTITUTIONS OF HIGHER EDUCATION.—

“(1) FIVE-YEAR PLAN.—An institution of higher education (as defined in section 170(p)(2)) shall not be treated as described in subsection (c)(3) unless the institution submits to the Secretary (at such time and in such manner as the Secretary shall prescribe) 5-year plans which—

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

“(B) in the case of any plan after the first 5-year plan submitted under this paragraph, describe any failure to achieve the goals of the preceding 5-year plan and any steps being taken to address such failures,
“(C) identify areas in which costs are projected to increase the most and the measures being taken to address such cost increases, and

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

“(2) REPORT.—The plan shall include a report which includes information detailing salaries paid by the institution, any certified audited financial statement, any fees paid by the institution for investment management services, the institution’s long-term spending plan, the institution’s investments (including the risk profile and expected rate of return of such investments), and the institution’s 5 largest spending categories, the amounts spent within those categories, and the 5 items within each category on which the most is spent. The institution shall make such plan publicly available and include such plan on the institution’s website.

“(3) EDUCATIONAL GUARANTEE.—A qualified institution of higher education (as defined in section 4968(e)(1)) shall not be treated as described in subsection (e)(3) unless—

“(A) at least 20 percent of the students of such institution are eligible to receive a Federal
Pell Grant under section 401 of the Higher Education Act of 1965 for the academic year beginning in the taxable year, and

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

(d) Clerical Amendment.—The table of subchapters for chapter 42 of such Code is amended by adding at the end the following new item:

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

(e) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of enactment of this Act.

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

(a) Donor Advised Funds.—Section 4966 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(e) Special Rule for Unrestricted Donations to Qualified Institutions of Higher Education.—
“(1) IN GENERAL.—In the case of any restricted distribution from a donor advised fund to an institution of higher education (as defined in section 170(p)(2))—

“(A) such distributions shall be treated as a taxable distribution for purposes of this section, and

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

“(2) RESTRICTED DISTRIBUTION.—For purposes of this subsection, the term ‘restricted distribution’ means a distribution restricted by the fund to a use other than scholarships.”.

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

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

“(1) IN GENERAL.—In the case of any restricted distribution from a private foundation to an institution of higher education (as defined in section 170(p)(2))—

“(A) such distribution shall be treated as a taxable expenditure for purposes of this section, and
“(B) subsection (a)(1) shall be applied by substituting ‘100 percent’ for ‘20 percent’.

“(2) Restricted distribution.—For purposes of this subsection, the term ‘restricted distribution’ means a distribution restricted by the foundation to a use other than scholarships.”.

(c) Effective Date.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 4. REPORT ON NET TUITION FOR CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

(a) In General.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

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

“(a) In General.—Each institution of higher education (as defined in section 170(p)(2)) shall for the taxable year make a return to the Secretary which contains—

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

“(A) the cost of attendance at such institution (as defined in section 472), over
“(B) the grants from such institution received by such student, and
“(2) the number of students enrolled at such institution on the first day of the taxable year.
“(b) FORM AND MANNER.—Such return shall be made at such time, and in such form and manner, as the Secretary may by regulation prescribe.”.
(b) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end the following new item:

“Sec. 6050X. Disclosures required with respect to net tuition.”.
(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 5. FEDERAL PELL GRANT PROGRAM FUNDING.
Section 401(b)(7)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(7)(iv))—
(1) in subclause (XI), by striking the period at the end and inserting a comma; and
(2) by inserting at the end the following flush left text: “, which, beginning with fiscal year 2019, for each fiscal year for which amounts made are made available pursuant to subclauses (IX) through (XI), the amount made available for the fiscal year shall be increased by an amount equal to the in-
crease in receipts to the Treasury during the pre-
ceeding fiscal year attributable to the taxes imposed
by section 4968 of the Internal Revenue Code of
1986.”.

SEC. 6. CONSUMER INFORMATION.

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

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

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

“(CC) The total expenses for managing the
endowment of the institution, disaggregated—
“(i) by office space and equipment,
and any other expenses not described in
clause (ii); and
“(ii) by outside management and per-
formance fees by category.
“(DD) Total institutional aid provided to students by the institution and the total amount of such aid, disaggregated—

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

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

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

“(iv) by the income categories described in paragraph (6).

“(EE) The number of students whose parents and grandparents have provided the institution—

“(i) more than $100,000 during the 4-year period beginning on the day before the student’s first date of attendance through the graduation, transfer, or expulsion of the student; or

“(ii) more than $500,000 in the aggregate.

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