

Union Calendar No. 194

105<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 2646**

[Report No. 105-332]

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**A BILL**

To amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

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OCTOBER 21, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 9, 1997

Mr. ARCHER (for himself and Mr. GINGRICH) introduced the following bill;  
which was referred to the Committee on Ways and Means

OCTOBER 21, 1997

Additional sponsors: Mr. ARMEY, Mr. DELAY, Mr. BOEHNER, Mr. BUNNING, Mr. CHRISTENSEN, Mr. COLLINS, Ms. DUNN, Mr. ENSIGN, Mr. HAYWORTH, Mr. HERGER, Mr. MCCRERY, Mr. WELLER, Mr. LINDER, Mr. BLILEY, Mr. INGLIS of South Carolina, Mr. HOEKSTRA, Mr. GREENWOOD, Mr. SOUDER, Mr. PARKER, Mr. MILLER of Florida, Mr. RILEY, Mr. SNOWBARGER, Mr. STEARNS, Mr. CHABOT, Mrs. EMERSON, Mr. POMBO, Mr. BACHUS, Mr. EHLERS, Mr. TALENT, Mr. NUSSLE, Ms. GRANGER, Mr. GOODLING, Ms. PRYCE of Ohio, Mr. NEUMANN, Mr. HULSHOF, Mr. FLAKE, Mr. KASICH, and Mr. LIPINSKI

OCTOBER 21, 1997

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on October 9, 1997]

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## A BILL

To amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, 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 “Education Savings Act*  
 5 *for Public and Private Schools”.*

6 **SEC. 2. MODIFICATIONS TO EDUCATION INDIVIDUAL RE-**  
 7 **TIREMENT ACCOUNTS.**

8        *(a) TAX-FREE EXPENDITURES FOR ELEMENTARY AND*  
 9 *SECONDARY SCHOOL EXPENSES.—*

10            *(1) IN GENERAL.—Section 530(b)(2) of the Inter-*  
 11 *nal Revenue Code of 1986 is amended to read as fol-*  
 12 *lows:*

13            *“(2) QUALIFIED EDUCATION EXPENSES.—*

14                    *“(A) IN GENERAL.—The term ‘qualified*  
 15 *education expenses’ means—*

16                            *“(i) qualified higher education ex-*  
 17 *penses (as defined in section 529(e)(3)), and*

1                   “(ii) *qualified elementary and second-*  
2                   *ary education expenses (as defined in para-*  
3                   *graph (4)).*

4                   *Such expenses shall be reduced as provided in*  
5                   *section 25A(g)(2).*

6                   “(B) *QUALIFIED STATE TUITION PRO-*  
7                   *GRAMS.—Such term shall include amounts paid*  
8                   *or incurred to purchase tuition credits or certifi-*  
9                   *icates, or to make contributions to an account,*  
10                  *under a qualified State tuition program (as de-*  
11                  *fined in section 529(b)) for the benefit of the ben-*  
12                  *eficiary of the account.”*

13                  (2) *QUALIFIED ELEMENTARY AND SECONDARY*  
14                  *EDUCATION EXPENSES.—Section 530(b) of such Code*  
15                  *is amended by adding at the end the following new*  
16                  *paragraph:*

17                  “(4) *QUALIFIED ELEMENTARY AND SECONDARY*  
18                  *EDUCATION EXPENSES.—*

19                  “(A) *IN GENERAL.—The term ‘qualified ele-*  
20                  *mentary and secondary education expenses’*  
21                  *means tuition, fees, tutoring, special needs serv-*  
22                  *ices, books, supplies, computer equipment (in-*  
23                  *cluding related software and services) and other*  
24                  *equipment, transportation, and supplementary*  
25                  *expenses required for the enrollment or attend-*

1           *ance of the designated beneficiary of the trust at*  
 2           *a public, private, or religious school.*

3                   “(B)           *SPECIAL           RULE           FOR*  
 4           *HOMESCHOOLING.—Such term shall include ex-*  
 5           *penditures described in subparagraph (A) required*  
 6           *for education provided for homeschooling if the*  
 7           *requirements of any applicable State or local law*  
 8           *are met with respect to such education.*

9                   “(C) *SCHOOL.—The term ‘school’ means*  
 10           *any school which provides elementary education*  
 11           *or secondary education (through grade 12), as*  
 12           *determined under State law.”*

13                   (3) *CONFORMING AMENDMENTS.—Subsections*  
 14           *(b)(1) and (d)(2) of section 530 of such Code are each*  
 15           *amended by striking “higher” each place it appears*  
 16           *in the text and heading thereof.*

17                   (b) *INCREASE IN MAXIMUM ANNUAL CONTRIBU-*  
 18           *TIONS.—*

19                   (1) *IN GENERAL.—Section 530(b)(1)(A)(iii) of*  
 20           *the Internal Revenue Code of 1986 is amended by*  
 21           *striking “\$500” and inserting “\$2,500”.*

22                   (2) *CONFORMING AMENDMENTS.—*

23                   (A) *Section 530(d)(4)(C) of such Code is*  
 24           *amended by striking “\$500” and inserting*  
 25           *“\$2,500”.*

1                   (B) Section 4973(e)(1)(A) of such Code is  
2                   amended by striking “\$500” and inserting  
3                   “\$2,500”.

4           (c) *WAIVER OF AGE LIMITATIONS FOR CHILDREN*  
5 *WITH SPECIAL NEEDS.*—Paragraph (1) of section 530(b)  
6 of the Internal Revenue Code of 1986 is amended by adding  
7 at the end the following flush sentence:

8           “The age limitations in the preceding sentence shall  
9           not apply to any designated beneficiary with special  
10           needs (as determined under regulations prescribed by  
11           the Secretary).”

12           (d) *CORPORATIONS PERMITTED TO CONTRIBUTE TO*  
13 *ACCOUNTS.*—Paragraph (1) of section 530(c) of the Inter-  
14 *nal Revenue Code of 1986* is amended by striking “The  
15 *maximum amount which a contributor*” and inserting “In  
16 *the case of a contributor who is an individual, the maxi-*  
17 *mum amount the contributor*”.

18           (e) *EFFECTIVE DATE; REFERENCES.*—

19                   (1) *EFFECTIVE DATE.*—The amendments made  
20                   by this section shall take effect as if included in the  
21                   amendments made by section 213 of the Taxpayer Re-  
22                   lief Act of 1997.

23                   (2) *REFERENCES.*—Any reference in this section  
24                   to any section of the Internal Revenue Code of 1986

1        *shall be a reference to such section as added by the*  
2        *Taxpayer Relief Act of 1997.*

3        **SEC. 3. OVERRULING OF SCHMIDT BAKING COMPANY CASE.**

4        (a) *IN GENERAL.*—*The Internal Revenue Code of 1986*  
5        *shall be applied (other than with respect to severance pay)*  
6        *without regard to the result reached in the case of Schmidt*  
7        *Baking Company, Inc. v. Commissioner of Internal Reve-*  
8        *nue, 107 T.C. 271 (1996).*

9        (b) *REGULATIONS.*—*The Secretary of the Treasury or*  
10       *the Secretary's delegate shall prescribe regulations to reflect*  
11       *subsection (a).*

12       (c) *EFFECTIVE DATE.*—

13                (1) *IN GENERAL.*—*Subsections (a) and (b) shall*  
14        *apply to taxable years ending after October 8, 1997.*

15                (2) *CHANGE IN METHOD OF ACCOUNTING.*—*In*  
16        *the case of any taxpayer required by this section to*  
17        *change its method of accounting for its first taxable*  
18        *year ending after October 8, 1997—*

19                        (A) *such change shall be treated as initiated*  
20        *by the taxpayer,*

21                        (B) *such change shall be treated as made*  
22        *with the consent of the Secretary of the Treasury,*  
23        *and*

24                        (C) *the net amount of the adjustments re-*  
25        *quired to be taken into account by the taxpayer*

1           *under section 481 of the Internal Revenue Code*  
2           *of 1986 shall be taken into account in such first*  
3           *taxable year.*