

106TH CONGRESS  
1ST SESSION

# S. 14

To amend the Internal Revenue Code of 1986 to expand the use of education individual retirement accounts, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. COVERDELL (for himself and Mr. TORRICELLI) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to expand the use of education individual retirement 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; AMENDMENT TO 1986 CODE.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Education Savings Account and School Excellence Act  
6       of 1999”.

7       (b) AMENDMENT OF 1986 CODE.—Except as other-  
8       wise expressly provided, whenever in this title an amend-  
9       ment or repeal is expressed in terms of an amendment  
10      to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-  
 2 sion of the Internal Revenue Code of 1986.

3 **SEC. 2. MODIFICATIONS TO EDUCATION INDIVIDUAL RE-**  
 4 **TIREMENT ACCOUNTS.**

5 (a) TAX-FREE EXPENDITURES FOR ELEMENTARY  
 6 AND SECONDARY SCHOOL EXPENSES.—

7 (1) IN GENERAL.—Section 530(b)(2) (defining  
 8 qualified higher education expenses) is amended to  
 9 read as follows:

10 “(2) QUALIFIED EDUCATION EXPENSES.—

11 “(A) IN GENERAL.—The term ‘qualified  
 12 education expenses’ means—

13 “(i) qualified higher education ex-  
 14 penses (as defined in section 529(e)(3));  
 15 and

16 “(ii) qualified elementary and second-  
 17 ary education expenses (as defined in para-  
 18 graph (4)).

19 Such expenses shall be reduced as provided in  
 20 section 25A(g)(2).

21 “(B) QUALIFIED STATE TUITION PRO-  
 22 GRAMS.—Such term shall include amounts paid  
 23 or incurred to purchase tuition credits or cer-  
 24 tificates, or to make contributions to an ac-  
 25 count, under a qualified State tuition program

1 (as defined in section 529(b)) for the benefit of  
 2 the beneficiary of the account.”.

3 (2) QUALIFIED ELEMENTARY AND SECONDARY  
 4 EDUCATION EXPENSES.—Section 530(b) (relating to  
 5 definitions and special rules) is amended by adding  
 6 at the end the following new paragraph:

7 “(4) QUALIFIED ELEMENTARY AND SECONDARY  
 8 EDUCATION EXPENSES.—

9 “(A) IN GENERAL.—The term ‘qualified el-  
 10 elementary and secondary education expenses’  
 11 means—

12 “(i) expenses for tuition, fees, aca-  
 13 demic tutoring, special needs services,  
 14 books, supplies, computer equipment (in-  
 15 cluding related software and services), and  
 16 other equipment which are incurred in con-  
 17 nection with the enrollment or attendance  
 18 of the designated beneficiary of the trust  
 19 as an elementary or secondary school stu-  
 20 dent at a public, private, or religious  
 21 school; or

22 “(ii) expenses for room and board,  
 23 uniforms, transportation, and supple-  
 24 mentary items and services (including ex-  
 25 tended day programs) which are required

or provided by a public, private, or religious school in connection with such enrollment or attendance.

“(B) SPECIAL RULE FOR HOMESCHOOLING.—Such term shall include expenses described in subparagraph (A)(i) in connection with education provided by homeschooling if the requirements of any applicable State or local law are met with respect to such education.

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

(3) SPECIAL RULES FOR APPLYING EXCLUSION TO ELEMENTARY AND SECONDARY EXPENSES.—Section 530(d)(2) (relating to distributions for qualified higher education expenses) is amended by adding at the end the following new subparagraph:

“(E) SPECIAL RULES FOR ELEMENTARY AND SECONDARY EXPENSES.—

“(i) IN GENERAL.—The aggregate amount of qualified elementary and secondary education expenses taken into account for purposes of this paragraph with

respect to any education individual retirement account for all taxable years shall not exceed the sum of the aggregate contributions to such account for taxable years beginning after December 31, 1998, and before January 1, 2003, and earnings on such contributions.

“(ii) SPECIAL OPERATING RULES.—

For purposes of clause (i)—

“(I) the trustee of an education individual retirement account shall keep separate accounts with respect to contributions and earnings described in clause (i); and

“(II) if there are distributions in excess of qualified elementary and secondary education expenses for any taxable year, such excess distributions shall be allocated first to contributions and earnings not described in clause (i).”.

(4) CONFORMING AMENDMENTS.—Subsections

(b)(1) and (d)(2) of section 530 are each amended by striking “higher” each place it appears in the text and heading thereof.

1 (b) MAXIMUM ANNUAL CONTRIBUTIONS.—

2 (1) IN GENERAL.—Section 530(b)(1)(A)(iii)  
3 (defining education individual retirement account) is  
4 amended by striking “\$500” and inserting “the con-  
5 tribution limit for such taxable year”.

6 (2) CONTRIBUTION LIMIT.—Section 530(b) (re-  
7 lating to definitions and special rules), as amended  
8 by subsection (a)(2), is amended by adding at the  
9 end the following new paragraph:

10 “(5) CONTRIBUTION LIMIT.—The term ‘con-  
11 tribution limit’ means \$500 (\$2,000 in the case of  
12 any taxable year beginning after December 31,  
13 1998, and ending before January 1, 2003).”.

14 (3) CONFORMING AMENDMENT.—Section  
15 4973(e)(1)(A) is amended by striking “\$500” and  
16 inserting “the contribution limit (as defined in sec-  
17 tion 530(b)(5)) for such taxable year”.

18 (c) WAIVER OF AGE LIMITATIONS FOR CHILDREN  
19 WITH SPECIAL NEEDS.—Section 530(b)(1) (defining edu-  
20 cation individual retirement account) is amended by add-  
21 ing at the end the following flush sentence:

22 “The age limitations in the preceding sentence shall  
23 not apply to any designated beneficiary with special  
24 needs (as determined under regulations prescribed  
25 by the Secretary).”.

1       (d) CORPORATIONS PERMITTED TO CONTRIBUTE TO  
2 ACCOUNTS.—Section 530(c)(1) (relating to reduction in  
3 permitted contributions based on adjusted gross income)  
4 is amended by striking “The maximum amount which a  
5 contributor” and inserting “In the case of a contributor  
6 who is an individual, the maximum amount the contribu-  
7 tor”.

8       (e) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to taxable years beginning after  
10 December 31, 1998.

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