

107TH CONGRESS  
2D SESSION

# H. R. 3685

To amend the Internal Revenue Code of 1986 to allow a refundable credit against income tax for educational expenses incurred for each qualifying child of the taxpayer in attending public or private elementary or secondary school.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2002

Mr. SMITH of New Jersey introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow a refundable credit against income tax for educational expenses incurred for each qualifying child of the taxpayer in attending public or private elementary or secondary school.

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, Achieve-  
5       ment, and Opportunity Act”.

1 **SEC. 2. CREDIT FOR ELEMENTARY AND SECONDARY EDU-**  
 2 **CATION EXPENSES.**

3 (a) IN GENERAL.—Subpart C of part IV of sub-  
 4 chapter A of chapter 1 of the Internal Revenue Code of  
 5 1986 (relating to refundable credits) is amended by redес-  
 6 ignating section 35 as section 36 and by inserting after  
 7 section 34 the following new section:

8 **“SEC. 35. ELEMENTARY AND SECONDARY EDUCATION EX-**  
 9 **PENSES.**

10 “(a) ALLOWANCE OF CREDIT.—

11 “(1) IN GENERAL.—In the case of an indi-  
 12 vidual, there shall be allowed as a credit against the  
 13 tax imposed by this subtitle for the taxable year the  
 14 amount of the qualified education expenses paid by  
 15 the taxpayer during the taxable year for each quali-  
 16 fying child of the taxpayer.

17 “(2) AMOUNT PER CHILD.—The amount of  
 18 credit allowable under paragraph (1) for any taxable  
 19 year with respect to the qualified education expenses  
 20 of each qualifying child of the taxpayer shall not  
 21 exceed—

22 “(A) \$2,500 for a child enrolled in an ele-  
 23 mentary school for any portion of the taxable  
 24 year, and

1                   “(B) \$3,500 for a child enrolled in a sec-  
2                   ondary school for any portion of the taxable  
3                   year.

4           In any taxable year in which a child meets the re-  
5           quirements of both subparagraphs (A) and (B), the  
6           amount of credit allowable shall not exceed the sum  
7           of the amounts in such subparagraphs.

8           “(b) LIMITATION BASED ON ADJUSTED GROSS IN-  
9   COME.—The amount of the credit allowable under sub-  
10   section (a) (after the application of subsection (a)(2)) shall  
11   be reduced (but not below zero) by \$50 for each \$1,000  
12   (or fraction thereof) by which the taxpayer’s modified ad-  
13   justed gross income exceeds the threshold amount. For  
14   purposes of this subsection—

15                   “(1) THRESHOLD AMOUNT.—The term ‘thresh-  
16                   old amount’ means—

17                           “(A) \$150,000 in the case of a joint re-  
18                   turn, and

19                           “(B) \$75,000 in any other case.

20                   “(2) MODIFIED ADJUSTED GROSS INCOME.—

21           The term ‘modified adjusted gross income’ means  
22           adjusted gross income increased by any amount ex-  
23           cluded from gross income under section 911, 931, or  
24           933.

1           “(3) MARITAL STATUS.—Marital status shall be  
2           determined under section 7703.

3           “(c) SPECIAL RULE RELATED TO HOME SCHOOL-  
4           ING.—In the case of education furnished to a child in a  
5           home, the credit under subsection (a) is allowable for a  
6           taxable year only if the child takes any applicable student  
7           achievement exam that all children enrolled in the nearest  
8           public school would ordinarily be required to take during  
9           the academic year beginning during the taxable year.

10          “(d) DEFINITIONS.—For purposes of this section—

11           “(1) QUALIFYING CHILD.—The term ‘qualifying  
12           child’ has the meaning provided by section 24(c).

13           “(2) QUALIFIED EDUCATION EXPENSES.—

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

16                   “(i) tuition and fees required for the  
17                   enrollment or attendance of a student at a  
18                   qualified educational institution,

19                   “(ii) computers, educational software,  
20                   computer support services, and books re-  
21                   quired for courses of instruction at a quali-  
22                   fied educational institution,

23                   “(iii) academic tutoring (by a person  
24                   other than the taxpayer),

1 “(iv) special needs services for quali-  
2 fying children with disabilities (within the  
3 meaning of the Americans With Disabil-  
4 ities Act of 1990),

5 “(v) fees for transportation services to  
6 and from a private school, if the transpor-  
7 tation is provided by the school and the  
8 school charges a fee for the transportation,  
9 and

10 “(vi) academic testing services.

11 “(B) AMOUNTS EXCLUDED.—The term  
12 does not include special school fees for nonaca-  
13 demic purposes, including fees for student ac-  
14 tivities, athletics, insurance, school uniforms,  
15 and nonacademic after-school activities.

16 “(3) QUALIFIED EDUCATIONAL INSTITUTION.—

17 The term ‘qualified educational institution’ means—

18 “(A) an elementary or secondary school (as  
19 defined in section 14101 of the Elementary and  
20 Secondary Education Act of 1965 (20 U.S.C.  
21 8801)), or

22 “(B) any private, parochial, religious, or  
23 home school organized for the purpose of pro-  
24 viding elementary or secondary education, or  
25 both.”.

1 (b) TECHNICAL AMENDMENTS.—

2 (1) Paragraph (2) of section 1324(b) of title  
3 31, United States Code, is amended by striking “or”  
4 after “1978,” and by inserting before the period “,  
5 or enacted by the Education, Achievement, and Op-  
6 portunity Act”.

7 (2) The table of sections for subpart C of part  
8 IV of subchapter A of chapter 1 of such Code is  
9 amended by striking the last item and inserting the  
10 following new items:

“Sec. 35. Elementary and secondary education expenses.

“Sec. 36. Overpayments of tax.”

11 (c) EFFECTIVE DATE.—The amendments made by  
12 this section shall apply to taxable years beginning after  
13 the date of the enactment of this Act.

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