

107TH CONGRESS
1ST SESSION

S. 306

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 13, 2001

Mr. TORRICELLI (for himself, Mr. HUTCHINSON, Mr. LIEBERMAN, Mr. SESSIONS, Mr. BREAUX, Mr. FRIST, Mr. MILLER, Mr. ENZI, Mr. GREGG, Mr. THOMPSON, Mr. HAGEL, Mr. BROWNBACK, Mr. SANTORUM, Mr. KYL, Mr. VOINOVICH, Mr. DEWINE, and Mr. CLELAND) introduced the following bill; which was read twice and referred to the Committee on Finance

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 OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Coverdell Education Savings Accounts Act of 2001”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment

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

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

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

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

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

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

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

17 “(ii) qualified elementary and sec-
18 ondary education expenses (as defined in
19 paragraph (4)).

20 “(B) **QUALIFIED STATE TUITION PRO-**
21 **GRAMS.**—Such term shall include any contribu-
22 tion to a qualified State tuition program (as de-
23 fined in section 529(b)) on behalf of the des-
24 ignated beneficiary (as defined in section
25 529(e)(1)); but there shall be no increase in the

1 investment in the contract for purposes of ap-
2 plying section 72 by reason of any portion of
3 such contribution which is not includible in
4 gross income by reason of subsection (d)(2).”.

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

9 “(4) **QUALIFIED ELEMENTARY AND SECONDARY**
10 **EDUCATION EXPENSES.**—

11 “(A) **IN GENERAL.**—The term ‘qualified el-
12 ementary and secondary education expenses’
13 means—

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

24 “(ii) expenses for room and board,
25 uniforms, transportation, and supple-

1 mentary items and services (including ex-
2 tended day programs) which are required
3 or provided by a public, private, or reli-
4 gious school in connection with such enroll-
5 ment or attendance.

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

10 (3) CONFORMING AMENDMENTS.—Section 530
11 is amended—

12 (A) by striking “higher” each place it ap-
13 pears in subsections (b)(1) and (d)(2), and
14 (B) by striking “HIGHER” in the heading
15 for subsection (d)(2).

16 (b) MAXIMUM ANNUAL CONTRIBUTIONS.—

17 (1) IN GENERAL.—Section 530(b)(1)(A)(iii)
18 (defining education individual retirement account) is
19 amended by striking “\$500” and inserting “the ap-
20 plicable dollar amount for the calendar year in which
21 such taxable year begins”.

22 (2) APPLICABLE DOLLAR AMOUNT.—Section
23 530(b) is amended by adding at the end the fol-
24 lowing new paragraph:

25 “(4) APPLICABLE DOLLAR AMOUNT.—

1 “(A) IN GENERAL.—For purposes of para-
2 graph (1)(A)(iii), the applicable dollar amount
3 is \$2,000.

4 “(B) INFLATION ADJUSTMENT.—

5 “(i) IN GENERAL.—In the case of any
6 taxable year beginning after 2002, the dol-
7 lar amount referred to in subparagraph
8 (A) shall be increased by an amount equal
9 to—

10 “(I) such dollar amount, multi-
11 plied by

12 “(II) the cost-of-living adjust-
13 ment determined under section
14 (1)(f)(3) for the calendar year in
15 which the taxable year begins, by sub-
16 stituting ‘2001’ for ‘1992’.

17 “(ii) ROUNDING.—If any amount as
18 adjusted under clause (i) is not a multiple
19 of \$50, such amount shall be rounded to
20 the nearest multiple of \$50.”.

21 (3) CONFORMING AMENDMENT.—Section
22 4973(e)(1)(A) is amended by striking “\$500” and
23 inserting “the applicable dollar amount for the cal-
24 endar year in which such taxable year begins”.

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

14 “The age limitations in subparagraphs (A)(ii) and
15 (E) and paragraphs (5) and (6) of subsection (d)
16 shall not apply to any designated beneficiary with
17 special needs (as determined under regulations pre-
18 scribed by the Secretary).”.

19 (d) ENTITIES PERMITTED TO CONTRIBUTE TO AC-
20 COUNTS.—Section 530(c)(1) (relating to reduction in per-
21 mitted contributions based on adjusted gross income) is
22 amended by striking “The maximum amount which a con-
23 tributor” and inserting “In the case of a contributor who
24 is an individual the maximum amount the contributor”

25 (e) TIME WHEN CONTRIBUTIONS DEEMED MADE —

5 “(5) TIME WHEN CONTRIBUTIONS DEEMED
6 MADE.—An individual shall be deemed to have made
7 a contribution to an education individual retirement
8 account on the last day of the preceding taxable year
9 if the contribution is made on account of such tax-
10 able year and is made not later than the time pre-
11 scribed by law for filing the return for such taxable
12 year (not including extensions thereof).”.

18 (A) by striking clause (i) and inserting the
19 following new clause:

23 (B) by striking "DUE DATE OF RETURN"
24 in the heading and inserting "CERTAIN DATE".

1 (f) COORDINATION WITH HOPE AND LIFETIME
2 LEARNING CREDITS AND QUALIFIED TUITION PRO-
3 GRAMS.—

4 (1) IN GENERAL.—Section 530(d)(2)(C) is
5 amended to read as follows:

6 “(C) COORDINATION WITH HOPE AND
7 LIFETIME LEARNING CREDITS AND QUALIFIED
8 TUITION PROGRAMS.—For purposes of subpara-
9 graph (A).

10 “(i) CREDIT COORDINATION.—The
11 total amount of qualified higher education
12 expenses with respect to an individual for
13 the taxable year shall be reduced—

14 “(I) as provided in section
15 25A(g)(2), and

16 “(II) by the amount of such ex-
17 penses which were taken into account
18 in determining the credit allowed to
19 the taxpayer or any other person
20 under section 25A.

21 “(ii) COORDINATION WITH QUALIFIED
22 TUITION PROGRAMS.—If, with respect to
23 an individual for any taxable year—

24 “(I) the aggregate distributions
25 during such year to which subpara-

1 graph (A) and section 529(c)(3)(B)
2 apply, exceed

3 “(II) the total amount of qual-
4 iied higher education expenses (after
5 the application of clause (i)) for such
6 year,

7 the taxpayer shall allocate such expenses
8 among such distributions for purposes of
9 determining the amount of the exclusion
10 under subparagraph (A) and section
11 529(c)(3)(B).”.

12 (2) CONFORMING AMENDMENTS.—

13 (A) Subsection (e) of section 25A is
14 amended to read as follows:

15 “(e) ELECTION NOT TO HAVE SECTION APPLY.—A
16 taxpayer may elect not to have this section apply with re-
17 spect to the qualified tuition and related expenses of an
18 individual for any taxable year.”.

19 (B) Section 135(d)(2)(A) is amended by
20 striking “allowable” and inserting “allowed”.

21 (C) Section 530(d)(2)(D) is amended—
22 (i) by striking “or credit”, and
23 (ii) by striking “CREDIT OR” in the
24 heading.

1 (D) Section 4973(e)(1) is amended by add-
2 ing “and” at the end of subparagraph (A), by
3 striking subparagraph (B), and by redesign-
4 nating subparagraph (C) as subparagraph (B).

5 (g) RENAMING EDUCATION INDIVIDUAL RETIRE-
6 MENT ACCOUNTS AS COVERDELL EDUCATION SAVINGS
7 ACCOUNTS.—

8 (1) IN GENERAL.—

9 (A) Section 530 (as amended by the pre-
10 ceding provisions of this section) is amended by
11 striking “an education individual retirement ac-
12 count” each place it appears and inserting “a
13 Coverdell education savings account”.

14 (B) The heading for paragraph (1) of sec-
15 tion 530(b) is amended by striking “EDU-
16 CATION INDIVIDUAL RETIREMENT ACCOUNT”
17 and inserting “COVERDELL EDUCATION SAV-
18 INGS ACCOUNT”.

19 (C) The heading for section 530 is amend-
20 ed to read as follows:

21 "SEC. 530. COVERDELL EDUCATION SAVINGS ACCOUNTS."

22 (D) The item in the table of contents for
23 part VII of subchapter F of chapter 1 relating
24 to section 530 is amended to read as follows:

“Sec. 530. Coverdell education savings accounts.”.

25 (2) CONFORMING AMENDMENTS.—

- 5 (i) Section 25A(e)(2).
- 6 (ii) Section 72(e)(9).
- 7 (iii) Section 135(c)(2)(C).
- 8 (iv) Section 4973(a).
- 9 (v) Subsections (c) and (e) of section

18 (C) The headings for each of the following
19 provisions are amended by striking “EDU-
20 CATION INDIVIDUAL RETIREMENT ACCOUNTS”
21 each place it appears and inserting “COVER-
22 DELL EDUCATION SAVINGS ACCOUNTS”.

- 23 (i) Section 72(e)(9).
- 24 (ii) Section 135(c)(2)(C).
- 25 (iii) Section 4973(e).

1 (iv) Section 4975(c)(5).

2 (h) EFFECTIVE DATES.—

10 SEC. 3. EXCLUSION FROM INCOME OF CERTAIN AMOUNTS
11 CONTRIBUTED TO COVERDELL EDUCATION
12 SAVINGS ACCOUNTS.

13 (a) IN GENERAL.—Part III of subchapter B or chap-
14 ter 1 of the Internal Revenue Code of 1986 (relating to
15 items specifically excluded from gross income) is amended
16 by redesignating section 139 as section 140 and by adding
17 at the end the following:

18 SEC. 139. COVERDELL EDUCATION SAVINGS ACCOUNTS.

19 "(a) EXCLUSION FROM GROSS INCOME.—Gross in-
20 come of an employee shall not include—

21 “(1) amounts paid or incurred by the employer
22 for a qualified Coverdell education savings account
23 contribution on behalf of the employee or a member
24 of the employee’s family, and

1 “(2) any distribution from a Coverdell edu-
2 cation savings account of such contribution.

3 “(b) **QUALIFIED COVERDELL EDUCATION SAVINGS**
4 **ACCOUNT CONTRIBUTION.**—For purposes of this
5 section—

6 “(1) **IN GENERAL.**—The term ‘qualified Cover-
7 dell education savings account contribution’ means
8 an amount contributed, directly or indirectly, as part
9 of an education savings program by an employer to
10 a Coverdell education savings account established
11 and maintained for the benefit of the employee or a
12 member of the employee’s family.

13 “(2) **EDUCATION SAVINGS PROGRAM.**—For pur-
14 poses of paragraph (1), an education savings pro-
15 gram is a separate written plan of an employer for
16 the exclusive benefit of such employer’s employees—

17 “(A) under which the employer makes con-
18 tributions described in paragraph (1), and

19 “(B) which meets requirements similar to
20 the requirements of paragraphs (2), (3), (5),
21 and (6) of section 127(b).”.

22 (b) **CONFORMING AMENDMENT.**—The table of sec-
23 tions for part III of subchapter B or chapter 1 of the In-
24 ternal Revenue Code of 1986 is amended by striking the
25 item relating to section 139 and by inserting the following:

“Sec. 139. Coverdell education savings accounts.

“Sec. 140. Cross references to other Acts.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to contributions made in taxable
3 years beginning after December 31, 2001.

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