

Etheridge	Luther	Rush
Evans	Maloney (CT)	Sabo
Fattah	Maloney (NY)	Sanders
Fazio	Markey	Sawyer
Filner	Martinez	Scott
Foglietta	Mascara	Serrano
Frank (MA)	Matsui	Sherman
Furse	McDermott	Slaughter
Gejdenson	McGovern	Smith, Adam
Gephardt	McHale	Stabenow
Green	McKinney	Stark
Gutierrez	McNulty	Stenholm
Hastings (FL)	Meehan	Stokes
Hefner	Meek	Strickland
Hilliard	Millender-	Stupak
Hinchee	McDonald	Tanner
Holden	Miller (CA)	Taylor (MS)
Hoyer	Minge	Thompson
Jackson (IL)	Mink	Thurman
Jackson-Lee	Nadler	Tierney
(TX)	Oberstar	Torres
Jefferson	Obey	Towns
Johnson (WI)	Olver	Turner
Johnson, E.B.	Owens	Velazquez
Kanjorski	Pallone	Vento
Kaptur	Payne	Visclosky
Kennedy (RI)	Pelosi	Waters
Kilpatrick	Peterson (MN)	Watt (NC)
Kind (WI)	Pickett	Waxman
Kucinich	Poshard	Wexler
Lantos	Rivers	Weygand
Lewis (GA)	Rodriguez	Wise
Lipinski	Roemer	Woolsey
Lofgren	Rothman	Yates
Lowey	Roybal-Allard	

NOT VOTING—11

Bliley	Flake	Linder
Brown (CA)	Gonzalez	McIntosh
Cubin	Harman	Schiff
Dingell	Houghton	

□ 1241

Ms. McKINNEY and Mr. STUPAK changed their vote from "yea" to "nay."

Messrs. RANGEL, RAHALL and McINTYRE changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

CONSIDERING MEMBER AS FIRST SPONSOR OF H.R. 616

Mrs. KELLY. Mr. Speaker, I ask unanimous consent that I may hereafter be considered as the first sponsor of H.R. 616, a bill originally introduced by Representative Molinari of New York, for the purposes of adding cosponsors and requesting reprints pursuant to clause 4 of rule XXII.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

EDUCATION SAVINGS ACT FOR PUBLIC AND PRIVATE SCHOOLS

Mr. ARCHER. Mr. Speaker, pursuant to House Resolution 274, I call up the bill (H.R. 2646) 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, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. SUNUNU). The bill is considered read for amendment.

The text of H.R. 2646 is as follows:

H.R. 2646

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Education Savings Act for Public and Private Schools".

SEC. 2. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

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

(1) IN GENERAL.—Section 530(b)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(2) QUALIFIED EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified education expenses' means—

"(i) qualified higher education expenses (as defined in section 529(e)(3)), and

"(ii) qualified elementary and secondary education expenses (as defined in paragraph (4)).

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

"(B) QUALIFIED STATE TUITION PROGRAMS.—Such term shall include amounts paid or incurred to purchase tuition credits or certificates, or to make contributions to an account, under a qualified State tuition program (as defined in section 529(b)) for the benefit of the beneficiary of the account."

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

"(4) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified elementary and secondary education expenses' means tuition, fees, tutoring, special needs services, books, supplies, equipment, transportation, and supplementary expenses required for the enrollment or attendance of the designated beneficiary of the trust at a public, private, or religious school.

"(B) SPECIAL RULE FOR HOMESCHOOLING.—Such term shall include expenses described in subparagraph (A) required for education provided for 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 (through grade 12), as determined under State law."

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

(b) INCREASE IN MAXIMUM ANNUAL CONTRIBUTIONS.—

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

(2) CONFORMING AMENDMENTS.—

(A) Section 530(d)(4)(C) of such Code is amended by striking "\$500" and inserting "\$2,500".

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

(c) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS.—Paragraph 1 of section 530(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following flush sentence: "The age limitations in the preceding sentence shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary)."

(d) CORPORATIONS PERMITTED TO CONTRIBUTE TO ACCOUNTS.—Paragraph (1) of section 530(c) of the Internal Revenue Code of 1986 is amended by striking "The maximum amount

which a contributor" and inserting "In the case of a contributor who is an individual, the maximum amount the contributor".

(e) EFFECTIVE DATE; REFERENCES.—

(1) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 213 of the Taxpayer Relief Act of 1997.

(2) REFERENCES.—Any reference in this section to any section of the Internal Revenue Code of 1986 shall be a reference to such section as added by the Taxpayer Relief Act of 1997.

SEC. 3. OVERRULING OF SCHMIDT BAKING COMPANY CASE.

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

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

(c) EFFECTIVE DATE.—

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

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

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

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

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first taxable year.

The SPEAKER pro tempore. Pursuant to House Resolution 274, the committee amendment in the nature of a substitute printed in the bill, modified by the amendment printed in part 1 of House Report 105-336, is adopted.

The text of the committee amendment in the nature of a substitute, as modified by part 1 of House Report 105-336 pursuant to House Resolution 274, is as follows:

H.R. 2646

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SECTION 1. SHORT TITLE.

This Act may be cited as the "Education Savings Act for Public and Private Schools".

SEC. 2. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

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

(1) IN GENERAL.—Section 530(b)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

"(2) QUALIFIED EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified education expenses' means—

"(i) qualified higher education expenses (as defined in section 529(e)(3)), and

"(ii) qualified elementary and secondary education expenses (as defined in paragraph (4)) but only with respect to amounts in the account which are attributable to contributions for any taxable year ending before January 1, 2003, and earnings on such contributions:

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