

Calendar No. 311

105TH CONGRESS
2D SESSION

S. 1133

[Report No. 105-164]

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

IN THE SENATE OF THE UNITED STATES

JULY 31, 1997

Mr. COVERDELL (for himself, Mr. LOTT, Mr. NICKLES, Mr. MACK, Mr. CRAIG, Mr. McCONNELL, Mr. ROTH, Mr. GRAMM, Mr. ABRAHAM, Mr. ASHCROFT, Mr. ALLARD, Mr. BENNETT, Mr. BOND, Mr. BROWNBACK, Mr. COATS, Mr. DOMENICI, Mr. DEWINE, Mr. FAIRCLOTH, Mr. GORTON, Mr. GRAMS, Mr. GREGG, Mr. HAGEL, Mr. HATCH, Mr. HELMS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. LIEBERMAN, Mr. McCAIN, Mr. MURKOWSKI, Mr. ROBERTS, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Mr. TORRICELLI, Mr. WARNER, Mr. COCHRAN, Mr. KYL, Mr. THOMPSON, Mr. BURNS, Mr. D'AMATO, Mr. SANTORUM, Mr. THOMAS, and Mr. FRIST) introduced the following bill; which was read twice and referred to the Committee on Finance

FEBRUARY 19, 1998

Reported by Mr. ROTH, under authority of the order of the Senate of February 12, 1998, with an amendment and an amendment to the title

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

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 and to increase the maximum annual amount of contributions to such accounts.

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 “Parent and Student
 5 Savings Account PLUS Act”.

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

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

10 (1) ~~IN GENERAL.—~~Section 530(b)(2) of the In-
 11 ternal Revenue Code of 1986 is amended to read as
 12 follows:

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));~~
 18 ~~and~~

19 ~~“(ii) qualified elementary and second-~~
 20 ~~ary education expenses (as defined in para-~~
 21 ~~graph (4)).~~

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

1 “(B) QUALIFIED STATE TUITION PRO-
 2 GRAMS.—Such term shall include amounts paid
 3 or incurred to purchase tuition credits or cer-
 4 tificates, or to make contributions to an ac-
 5 count, under a qualified State tuition program
 6 (as defined in section 529(b)) for the benefit of
 7 the beneficiary of the account.”

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

12 “(4) QUALIFIED ELEMENTARY AND SECONDARY
 13 EDUCATION EXPENSES.—

14 “(A) IN GENERAL.—The term ‘qualified el-
 15 ementary and secondary education expenses’
 16 means tuition, fees, tutoring, special needs serv-
 17 ices, books, supplies, equipment, transportation,
 18 and supplementary expenses required for the
 19 enrollment or attendance of the designated ben-
 20 eficiary of the trust at a public, private, or sec-
 21 tarian school.

22 “(B) SPECIAL RULE FOR
 23 HOMESCHOOLING.—Such term shall include ex-
 24 penses described in subparagraph (A) required
 25 for education provided for homeschooling if the

1 requirements of any applicable State or local
2 law are met with respect to such education.

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

7 (3) CONFORMING AMENDMENTS.—Subsections
8 (b)(1) and (d)(2) of section 530 of such Code are
9 each amended by striking “higher” each place it ap-
10 pears in the text and heading thereof.

11 (b) INCREASE IN MAXIMUM ANNUAL CONTRIBU-
12 TIONS.—

13 (1) IN GENERAL.—Section 530(b)(1)(A)(iii) of
14 the Internal Revenue Code of 1986 is amended by
15 striking “\$500” and inserting “\$2,000”.

16 (2) CONFORMING AMENDMENTS.—

17 (A) Section 530(d)(4)(C) of such Code is
18 amended by striking “\$500” and inserting
19 “\$2,000”.

20 (B) Section 4973(e)(1)(A) of such Code is
21 amended by striking “\$500” and inserting
22 “\$2,000”.

23 (c) EFFECTIVE DATE; REFERENCES.—

24 (1) EFFECTIVE DATE.—The amendments made
25 by this section shall take effect as if included in the

1 amendments made by section 213 of the Taxpayer
2 Relief Act of 1997.

3 ~~(2) REFERENCES.—Any reference in this sec-~~
4 ~~tion to any section of the Internal Revenue Code of~~
5 ~~1986 shall be a reference to such section as added~~
6 ~~by the Taxpayer Relief Act of 1997.~~

7 **SECTION 1. SHORT TITLE; AMENDMENT TO 1986 CODE;**

8 **TABLE OF CONTENTS.**

9 (a) *SHORT TITLE.—This Act may be cited as the*
10 *“Parent and Student Savings Account PLUS Act”.*

11 (b) *AMENDMENT TO 1986 CODE.—Except as otherwise*
12 *expressly provided, whenever in this Act an amendment or*
13 *repeal is expressed in terms of an amendment to, or repeal*
14 *of, a section or other provision, the reference shall be consid-*
15 *ered to be made to a section or other provision of the Inter-*
16 *nal Revenue Code of 1986.*

17 (c) *TABLE OF CONTENTS.—The table of contents for*
18 *this Act is as follows:*

Sec. 1. Short title; amendment to 1986 Code; table of contents.

TITLE I—TAX INCENTIVES FOR EDUCATION

Sec. 101. Modifications to education individual retirement accounts.

*Sec. 102. Exclusion from gross income of education distributions from qualified
State tuition programs.*

Sec. 103. Extension of exclusion for employer-provided educational assistance.

*Sec. 104. Additional increase in arbitrage rebate exception for governmental
bonds used to finance education facilities.*

*Sec. 105. Exclusion of certain amounts received under the National Health Corps
Scholarship program.*

TITLE II—REVENUE

Sec. 201. Clarification of deduction for deferred compensation.

Sec. 202. Modification to foreign tax credit carryback and carryover periods.

1 **TITLE I—TAX INCENTIVES FOR**
 2 **EDUCATION**

3 **SEC. 101. MODIFICATIONS TO EDUCATION INDIVIDUAL RE-**
 4 **TIREMENT ACCOUNTS.**

5 *(a) TAX-FREE EXPENDITURES FOR ELEMENTARY AND*
 6 *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 *penditures (as defined in section 529(e)(3)), and*

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

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

20 “(B) **QUALIFIED STATE TUITION PRO-**
 21 **GRAMS.—***Such term shall include amounts paid*
 22 *or incurred to purchase tuition credits or certifi-*
 23 *cates, or to make contributions to an account,*
 24 *under a qualified State tuition program (as de-*

1 *fined in section 529(b)) for the benefit of the ben-*
 2 *eficiary 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 ele-*
 10 *mentary and secondary education expenses’*
 11 *means—*

12 “(i) *expenses for tuition, fees, academic*
 13 *tutoring, special needs services, books, sup-*
 14 *plies, computer equipment (including relat-*
 15 *ed software and services), and other equip-*
 16 *ment which are incurred in connection with*
 17 *the enrollment or attendance of the des-*
 18 *ignated beneficiary of the trust as an ele-*
 19 *mentary or secondary school student at a*
 20 *public, private, or religious school, or*

21 “(ii) *expenses for room and board, uni-*
 22 *forms, transportation, and supplementary*
 23 *items and services (including extended day*
 24 *programs) which are required or provided*
 25 *by a public, private, or religious school in*

1 *connection with such enrollment or attend-*
 2 *ance.*

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

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

14 (3) *SPECIAL RULES FOR APPLYING EXCLUSION*
 15 *TO ELEMENTARY AND SECONDARY EXPENSES.—Sec-*
 16 *tion 530(d)(2) (relating to distributions for qualified*
 17 *higher education expenses) is amended by adding at*
 18 *the end the following new subparagraph:*

19 “(D) *SPECIAL RULES FOR ELEMENTARY*
 20 *AND SECONDARY EXPENSES.—*

21 “(i) *IN GENERAL.—The aggregate*
 22 *amount of qualified elementary and second-*
 23 *ary education expenses taken into account*
 24 *for purposes of this paragraph with respect*
 25 *to any education individual retirement ac-*

1 *count for all taxable years shall not exceed*
2 *the sum of the aggregate contributions to*
3 *such account for taxable years beginning*
4 *after December 31, 1998, and before Janu-*
5 *ary 1, 2003, and earnings on such contribu-*
6 *tions.*

7 “(i) *SPECIAL OPERATING RULES.—*

8 *For purposes of clause (i)—*

9 “(I) *the trustee of an education*
10 *individual retirement account shall*
11 *keep separate accounts with respect to*
12 *contributions and earnings described*
13 *in clause (i), and*

14 “(II) *if there are distributions in*
15 *excess of qualified elementary and sec-*
16 *ondary education expenses for any tax-*
17 *able year, such excess distributions*
18 *shall be allocated first to contributions*
19 *and earnings not described in clause*
20 *(i).”*

21 (4) *CONFORMING AMENDMENTS.—Subsections*
22 *(b)(1) and (d)(2) of section 530 are each amended by*
23 *striking “higher” each place it appears in the text*
24 *and heading thereof.*

25 (b) *MAXIMUM ANNUAL CONTRIBUTIONS.—*

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

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

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

13 (3) *CONFORMING AMENDMENTS.*—

14 (A) Section 530(d)(4)(C) is amended by
 15 striking “\$500” and inserting “the contribution
 16 limit for such taxable year”.

17 (B) Section 4973(e)(1)(A) is amended by
 18 striking “\$500” and inserting “the contribution
 19 limit (as defined in section 530(b)(5)) for such
 20 taxable year”.

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

1 *“The age limitations in the preceding sentence shall*
 2 *not apply to any designated beneficiary with special*
 3 *needs (as determined under regulations prescribed by*
 4 *the Secretary).”*

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

11 *(e) NO DOUBLE BENEFIT.—Section 530(d)(2) (relat-*
 12 *ing to distributions for qualified education expenses), as*
 13 *amended by subsection (a)(3), is amended by adding at the*
 14 *end the following new subparagraph:*

15 *“(E) DISALLOWANCE OF EXCLUDED*
 16 *AMOUNTS AS CREDIT OR DEDUCTION.—No deduc-*
 17 *tion or credit shall be allowed to the taxpayer*
 18 *under any other section of this chapter for any*
 19 *qualified education expenses to the extent taken*
 20 *into account in determining the amount of the*
 21 *exclusion under this paragraph.”*

22 *(f) TECHNICAL CORRECTIONS.—*

23 *(1)(A) Section 530(b)(1)(E) (defining education*
 24 *individual retirement account) is amended to read as*
 25 *follows:*

1 “(E) Any balance to the credit of the des-
2 ignated beneficiary on the date on which the ben-
3 eficiary attains age 30 shall be distributed with-
4 in 30 days after such date to the beneficiary or,
5 if the beneficiary dies before attaining age 30,
6 shall be distributed within 30 days after the date
7 of death to the estate of such beneficiary.”

8 (B) Section 530(d) (relating to tax treatment of
9 distributions) is amended by adding at the end the
10 following new paragraph:

11 “(8) *DEEMED DISTRIBUTION ON REQUIRED DIS-*
12 *TRIBUTION DATE.—In any case in which a distribu-*
13 *tion is required under subsection (b)(1)(E), any bal-*
14 *ance to the credit of a designated beneficiary as of the*
15 *close of the 30-day period referred to in such sub-*
16 *section for making such distribution shall be deemed*
17 *distributed at the close of such period.”*

18 (2)(A) Section 530(d)(1) is amended by striking
19 “section 72(b)” and inserting “section 72”.

20 (B) Section 72(e) (relating to amounts not re-
21 ceived as annuities) is amended by inserting after
22 paragraph (8) the following new paragraph:

23 “(9) *EXTENSION OF PARAGRAPH (2)(B) TO QUALI-*
24 *FIED STATE TUITION PROGRAMS AND EDUCATIONAL*
25 *INDIVIDUAL RETIREMENT ACCOUNTS.—Notwithstand-*

1 *ing any other provision of this subsection, paragraph*
2 *(2)(B) shall apply to amounts received under a quali-*
3 *fied State tuition program (as defined in section*
4 *529(b)) or under an education individual retirement*
5 *account (as defined in section 530(b)). The rule of*
6 *paragraph (8)(B) shall apply for purposes of this*
7 *paragraph.”*

8 *(3) Section 530(d)(4)(B) (relating to exceptions)*
9 *is amended by striking “or” at the end of clause (ii),*
10 *by striking the period at the end of clause (iii) and*
11 *inserting “, or”, and by adding at the end the follow-*
12 *ing new clause:*

13 *“(iv) an amount which is includible in*
14 *gross income solely because the taxpayer*
15 *elected under paragraph (2)(C) to waive the*
16 *application of paragraph (2) for the taxable*
17 *year.”*

18 *(g) EFFECTIVE DATES.—*

19 *(1) IN GENERAL.—Except as provided in para-*
20 *graph (2), the amendments made by this section shall*
21 *apply to taxable years beginning after December 31,*
22 *1998.*

23 *(2) TECHNICAL CORRECTIONS.—The amend-*
24 *ments made by subsection (f) shall take effect as if in-*

1 *cluded in the amendments made by section 213 of the*
2 *Taxpayer Relief Act of 1997.*

3 **SEC. 102. EXCLUSION FROM GROSS INCOME OF EDUCATION**
4 **DISTRIBUTIONS FROM QUALIFIED STATE TUI-**
5 **TION PROGRAMS.**

6 *(a) IN GENERAL.—Section 529(c)(3)(B) (relating to*
7 *distributions) is amended to read as follows:*

8 *“(B) DISTRIBUTIONS FOR QUALIFIED HIGH-*
9 *ER EDUCATION EXPENSES.—*

10 *“(i) IN GENERAL.—No amount shall be*
11 *includible in gross income under subpara-*
12 *graph (A) if the qualified higher education*
13 *expenses of the designated beneficiary dur-*
14 *ing the taxable year are not less than the*
15 *aggregate distributions during the taxable*
16 *year.*

17 *“(ii) DISTRIBUTIONS IN EXCESS OF*
18 *EXPENSES.—If such aggregate distributions*
19 *exceed such expenses during the taxable*
20 *year, the amount otherwise includible in*
21 *gross income under subparagraph (A) shall*
22 *be reduced by the amount which bears the*
23 *same ratio to the amount so includible*
24 *(without regard to this subparagraph) as*

1 *such expenses bear to such aggregate dis-*
 2 *tributions.*

3 “(iii) *ELECTION TO WAIVE EXCLU-*
 4 *SION.—A taxpayer may elect to waive the*
 5 *application of this subparagraph for any*
 6 *taxable year.*

7 “(iv) *IN-KIND DISTRIBUTIONS.—Any*
 8 *benefit furnished to a designated beneficiary*
 9 *under a qualified State tuition program*
 10 *shall be treated as a distribution to the ben-*
 11 *eficiary for purposes of this paragraph.*

12 “(v) *DISALLOWANCE OF EXCLUDED*
 13 *AMOUNTS AS CREDIT OR DEDUCTION.—No*
 14 *deduction or credit shall be allowed to the*
 15 *taxpayer under any other section of this*
 16 *chapter for any qualified higher education*
 17 *expenses to the extent taken into account in*
 18 *determining the amount of the exclusion*
 19 *under this paragraph.”*

20 (b) *DEFINITION OF QUALIFIED HIGHER EDUCATION*
 21 *EXPENSES.—Section 529(e)(3)(A) (defining qualified high-*
 22 *er education expenses) is amended to read as follows:*

23 “(A) *IN GENERAL.—The term ‘qualified*
 24 *higher education expenses’ means expenses for*
 25 *tuition, fees, academic tutoring, special needs*

1 *services, books, supplies, computer equipment*
2 *(including related software and services), and*
3 *other equipment which are incurred in connec-*
4 *tion with the enrollment or attendance of the des-*
5 *ignated beneficiary at an eligible educational in-*
6 *stitution.”*

7 *(c) COORDINATION WITH EDUCATION CREDITS.—Sec-*
8 *tion 25A(e)(2) (relating to coordination with exclusions) is*
9 *amended—*

10 *(1) by inserting “a qualified State tuition pro-*
11 *gram or” before “an education individual retirement*
12 *account”, and*

13 *(2) by striking “section 530(d)(2)” and inserting*
14 *“section 529(c)(3)(B) or 530(d)(2)”.*

15 *(d) TECHNICAL CORRECTION.—Section 529(c)(3)(A) is*
16 *amended by striking “section 72(b)” and inserting “section*
17 *72”.*

18 *(e) EFFECTIVE DATES.—*

19 *(1) IN GENERAL.—Except as provided in para-*
20 *graph (2), the amendments made by this section shall*
21 *apply to taxable years beginning after December 31,*
22 *1998.*

23 *(2) TECHNICAL CORRECTION.—The amendment*
24 *made by subsection (d) shall take effect as if included*

1 *in the amendments made by section 211 of the Tax-*
2 *payer Relief Act of 1997.*

3 **SEC. 103. EXTENSION OF EXCLUSION FOR EMPLOYER-PRO-**
4 **VIDED EDUCATIONAL ASSISTANCE.**

5 (a) *IN GENERAL.*—Section 127(d) (relating to termi-
6 *nation of exclusion for educational assistance programs) is*
7 *amended by striking “May 31, 2000” and inserting “De-*
8 *cember 31, 2002”.*

9 (b) *REPEAL OF LIMITATION ON GRADUATE EDU-*
10 *CATION.*—The last sentence of section 127(c)(1) (defining
11 *educational assistance) is amended by striking “, and such*
12 *term also does not include any payment for, or the provi-*
13 *sion of any benefits with respect to, any graduate level*
14 *course of a kind normally taken by an individual pursuing*
15 *a program leading to a law, business, medical, or other ad-*
16 *vanced academic or professional degree”.*

17 (c) *EFFECTIVE DATES.*—

18 (1) *EXTENSION.*—The amendment made by sub-
19 *section (a) shall apply to expenses paid with respect*
20 *to courses beginning after May 31, 2000.*

21 (2) *GRADUATE EDUCATION.*—The amendment
22 *made by subsection (b) shall apply to expenses paid*
23 *with respect to courses beginning after December 31,*
24 *1997.*

1 **SEC. 104. ADDITIONAL INCREASE IN ARBITRAGE REBATE**
 2 **EXCEPTION FOR GOVERNMENTAL BONDS**
 3 **USED TO FINANCE EDUCATION FACILITIES.**

4 (a) *IN GENERAL.*—Section 148(f)(4)(D)(vii) (relating
 5 to increase in exception for bonds financing public school
 6 capital expenditures) is amended by striking “\$5,000,000”
 7 the second place it appears and inserting “\$10,000,000”.

8 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 9 section (a) shall apply to obligations issued after December
 10 31, 1998.

11 **SEC. 105. EXCLUSION OF CERTAIN AMOUNTS RECEIVED**
 12 **UNDER THE NATIONAL HEALTH CORPS**
 13 **SCHOLARSHIP PROGRAM.**

14 (a) *IN GENERAL.*—Section 117(c) (relating to the ex-
 15 clusion from gross income amounts received as a qualified
 16 scholarship) is amended—

17 (1) by striking “Subsections (a)” and inserting
 18 the following:

19 “(1) *IN GENERAL.*—Except as provided in para-
 20 graph (2), subsections (a)”;

21 (2) by adding at the end the following new para-
 22 graph:

23 “(2) *NATIONAL HEALTH CORPS SCHOLARSHIP*
 24 *PROGRAM.*—Paragraph (1) shall not apply to any
 25 amount received by an individual under the National

1 *Health Corps Scholarship Program under section*
 2 *338A(g)(1)(A) of the Public Health Service Act.”*

3 **(b) EFFECTIVE DATE.**—*The amendments made by sub-*
 4 *section (a) shall apply to amounts received in taxable years*
 5 *beginning after December 31, 1993.*

6 **TITLE II—REVENUE**

7 **SEC. 201. CLARIFICATION OF DEDUCTION FOR DEFERRED**
 8 **COMPENSATION.**

9 **(a) IN GENERAL.**—*Section 404(a) (relating to deduc-*
 10 *tion for contributions of an employer to an employee’s trust*
 11 *or annuity plan and compensation under a deferred-pay-*
 12 *ment plan) is amended by adding at the end the following*
 13 *new paragraph:*

14 “(11) **DETERMINATIONS RELATING TO DEFERRED**
 15 **COMPENSATION.**—

16 “(A) **IN GENERAL.**—*For purposes of deter-*
 17 *mining under this section—*

18 “(i) *whether compensation of an em-*
 19 *ployee is deferred compensation, and*

20 “(ii) *when deferred compensation is*
 21 *paid,*

22 *no amount shall be treated as received by the em-*
 23 *ployee, or paid, until it is actually received by*
 24 *the employee.*

1 “(B) *EXCEPTION.*—Subparagraph (A) shall
2 *not apply to severance pay.*”

3 (b) *EFFECTIVE DATE.*—

4 (1) *IN GENERAL.*—The amendment made by sub-
5 *section (a) shall apply to taxable years ending after*
6 *the date of the enactment of this Act.*

7 (2) *CHANGE IN METHOD OF ACCOUNTING.*—In
8 *the case of any taxpayer required by the amendment*
9 *made by subsection (a) to change its method of ac-*
10 *counting for its first taxable year ending after the*
11 *date of the enactment of this Act—*

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

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

17 (C) *the net amount of the adjustments re-*
18 *quired to be taken into account by the taxpayer*
19 *under section 481 of the Internal Revenue Code*
20 *of 1986 shall be taken into account in such first*
21 *taxable year.*

22 **SEC. 202. MODIFICATION TO FOREIGN TAX CREDIT**
23 **CARRYBACK AND CARRYOVER PERIODS.**

24 (a) *IN GENERAL.*—Section 904(c) (relating to limita-
25 *tion on credit) is amended—*

1 (1) *by striking “in the second preceding taxable*
2 *year,” and*

3 (2) *by striking “or fifth” and inserting “fifth,*
4 *sixth, or seventh”.*

5 (b) *EFFECTIVE DATE.—The amendment made by sub-*
6 *section (a) shall apply to credits arising in taxable years*
7 *beginning after December 31, 1999.*

Amend the title so as to read: “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 and to increase the maximum annual amount of contributions to such accounts, and for other purposes.”.

Calendar No. 311

105TH CONGRESS
2^D SESSION

S. 1133

[Report No. 105-164]

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 and to increase the maximum annual amount of contributions to such accounts.

FEBRUARY 19, 1998

Reported under authority of the order of the Senate of February 12, 1998, with an amendment and an amendment to the title