Bill Summary & Status for the 106th Congress

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S.1134
Sponsor: Sen Roth, William V., Jr. (introduced 5/26/1999)
Latest Major Action: 5/26/1999 Senate preparation for floor
Title: An original 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, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

Jump to: Titles, Status, Committees, Related Bill Details, Amendments, Cosponsors, Summary

TITLE(S): (*italics indicate a title for a portion of a bill*)

- SHORT TITLE(S) AS INTRODUCED:
  Affordable Education Act of 1999

- OFFICIAL TITLE AS INTRODUCED:
  An original 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, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

STATUS: *(color indicates Senate actions)* (Floor Actions/Congressional Record Page References)

5/19/1999:
Committee on Finance ordered to be reported an original measure.

5/26/1999:
Committee on Finance. Original measure reported to Senate by Senator Roth. With written report No. 106-54. Minority views filed.

5/26/1999:
Placed on Senate Legislative Calendar under General Orders. Calendar No. 124.

COMMITTEE(S):

Committee/Subcommittee:	**Activity:**
Senate Finance	Origin, Reporting

RELATED BILL DETAILS:

NONE

AMENDMENT(S):

NONE

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CongressDailyAM

MONDAY TUESDAY **WEDNESDAY** THURSDAY FRIDAY

FEB. 23, 2000

Senate To Act This Week On Education Savings Accounts

OUTLOOK

AS THE SENATE WORKED TO FIRM UP its floor schedule for the week, the GOP leadership decided Tuesday to take up a bill today to allow parents to establish so-called Education Savings Accounts for their children. A spokeswoman for **Senate Majority Leader Lott** said the measure was a "strong contender" for floor consideration, and a spokeswoman for **Republican Conference Secretary Paul Coverdell** of Georgia, a cosponsor of the bill, said the measure was on the schedule for this afternoon.

The measure, which would allow parents to set aside up to $2,000 per year for each of their children — tax-free — to be spent on public or private schools, has attracted some bipartisan support, and is cosponsored by **Sen. Robert Torricelli**, D-N.J. But other Democrats have vowed to offer numerous amendments and may filibuster the bill. The Senate Finance Committee marked up the measure last year. And President Clinton last year vetoed a broader tax bill that included Education Savings Accounts. Meanwhile, with the House on a weeklong break, the Senate planned to vote on the Iran Nonproliferation Act Thursday morning and perhaps take up the Export Administration Act and biennial budgeting bills this week — then quit early for the GOP senators' spring retreat. Lott said that he still hopes the Senate would be able to take up the Export Administration Act as early as today, although he said Tuesday, "It's not ready yet." *(See related story, page 9.)* *continued on page 9*

Gramm, Schumer Team Up On Electric Dereg

ENERGY

SENATE BANKING **Chairman Gramm** and **Sen. Charles Schumer**, D-N.Y., confirmed Tuesday they are working together on a far-reaching electricity deregulation bill that they hope to introduce this year.

The development comes as **Senate Energy and Natural Resources Chairman Murkowski**, whose committee holds primary jurisdiction over the issue, prepares to introduce his own electricity restructuring proposal as early as this week.

In a brief interview with *CongressDaily*, Gramm said he and Schumer for almost a year have talked about introducing legislation. Although aides maintained that Gramm and Schumer have not begun drafting legislation, Gramm said he hopes to introduce a bill "soon."

The two senators are trying to "come up with legislation and do it this year," said a Gramm spokesman, while adding, "They have not gotten to the point in the discussions where they have come up with a bill."

Murkowski has nearly completed work on his bill, but has yet to secure the floor time he wants to introduce the legislation.

A Murkowski spokeswoman said the legislation will be comprehensive and will parallel a detailed outline that the chairman presented last fall during a speech to the National Summit on Electricity and Natural Gas.

The outline revealed that Murkowski favors leaving key decisions in the hands of the states and followed his philosophy that Congress should "deregulate where we can, streamline where we can't and allow the states to move forward."

The outline included no federal mandates on the marketplace and would not allow the federal government to usurp state authority in electricity markets.

It would repeal the Public Utility Holding Company Act and Public Utility Regulatory Policies Act, while taking steps to improve the reliability of electricity markets.

It did not include controversial provisions governing federal power marketing administrations or the Tennessee Valley Authority.

Sources believe that Murkowski will hold hearings on the bill beginning in March, and may try to move the bill soon after that.

— *BY BRODY MULLINS*

TODAY'S HIGHLIGHTS

Floor Schedule

Senate

Convenes at 10 a.m. to consider education savings account legislation.

House

Not in session.

(Committee schedules begin on page 11.)

Inside Stories

Outside Influences

- China's failure to fulfill ag trade deal concerns PNTR supporters, page 5.

"Kvaal, James" <James_Kvaal@ed.gov>
02/23/2000 01:47:32 PM

Record Type: Record

To: Ann O'Leary/OPD/EOP

cc:

Subject: FW: URGENT!! OMB draft SAP on S. 1134 (Coverdell Education IRAs) - comments due by 12:30 today

---

fyi -- goodwin said you were looking for info on this. the bill is expected to come up at 2:00. it's rumored to be coverdell plus a block grant component of some sort, but we don't yet know. call me or heidi with questions.

james.

> -----Original Message-----
> From: Riddle, Paul
> Sent: Wednesday, February 23, 2000 11:36 AM
> To: Peterson, Terry; Thornton, Leslie; Holleman, Frank; Rogers, Diane;
> Ramirez, Heidi; Fleming, Scott; Kelley, Thomas; Wetmore, Cynthia; Cook,
> Sandra; Cohen, Mike; O'Neil, Brendan; Johnson, Judith; Corwin, Thomas;
> Jones, Lonna; Veta, Jean; Wexler, Rob; Rosenfelt, Phil; Freid, Steve;
> Winnick, Steve; Kristy, Jack; Somerville, Leslie
> Subject: URGENT!! OMB draft SAP on S. 1134 (Coverdell Education IRAs) -
> comments due by 12:30 today
>
>
> As you can see from the message below, OMB expects the Senate to take up
> S. 1134 this afternoon, and has prepared a draft Statement of
> Administration Policy (SAP) stating that Secretaries Riley and Summers
> would recommend that the President veto the bill. The draft SAP is
> consistent with prior SAPs on similar bills and with letters that
> Secretary Riley and then-Secretary Rubin have sent to Congress in the past
> couple years. The text of the SAP is in the body of the message, so you
> don't need to mess with the attached file.
>
> If you have any comments on OMB's draft language (other than how to spell
> "record-breaking"), please let me know by 12:30 TODAY.
>
> Thanks.
>
>
> -----Original Message-----
> From: Ronald_E._Jones@omb.eop.gov [mailto:Ronald_E._Jones@omb.eop.gov]
> Sent: Wednesday, February 23, 2000 11:21 AM

> To: Melissa_G._Green@opd.eop.gov; Brian_V._Kennedy@opd.eop.gov;
> Andy_Rotherham@opd.eop.gov; John_C._Williams@cea.eop.gov;
> Joseph_J._Minarik@omb.eop.gov; Barbara_Chow@omb.eop.gov;
> Brooke_B._Livingston@omb.eop.gov; Robert_G._Damus@omb.eop.gov;
> Larry_R._Matlack@omb.eop.gov; Mary_C._Barth@omb.eop.gov;
> Wayne_Upshaw@omb.eop.gov; Lorenzo_Rasetti@omb.eop.gov;
> william.fant@do.treas.gov; paul_riddle@ed.gov; karen.dorsey@do.treas.gov
> Cc: Richard_E._Green@omb.eop.gov; James_J._Jukes@omb.eop.gov;
> Constance_J._Bowers@omb.eop.gov
> Subject: Urgent -- Draft SAP for S. 1134 -- Affordable Education Act --
> comments by 1 PM
>
>
> S. 1134 may be brought up on the Senate floor early this afternoon.
> Senate
> Democrats are asking for an Administration statement. The following draft
> is based on the May 18th letter from Secs. Summers and Riley to the Senate
> Finance Committee. (A Wordperfect file with the draft is also attached.)
>
> DRAFT -- NOT FOR RELEASE
> February 23, 2000
> (Senate)
>
>
>
>
>
> S. 1134 ~~-~~ Affordable Education Act
> ~~(Roth (R) Delaware)~~
>
> If S. 1134 were presented to the President, the Secretaries of Education
> and the Treasury would recommend that he veto the bill because it is bad
> education policy and bad tax policy.
>
> Every American child deserves a high-quality elementary and secondary
> education. Targeting limited Federal resources to build stronger public
> schools will help ensure that all our Nation's children receive the
> education they need to become productive citizens. S. 1134 falls far
> short
> of adequately addressing the problems States and local communities face of
> record-braking enrollments, meeting high standards for learning and
> discipline, and modernizing and repainting school buildings.
>
> S. 1134 would disproportionately benefit the most affluent families and
> provide little benefit to lower- and middle-income families. Moreover,
> given the expansion of tax-preferred savings vehicles in the Taxpayer
> Relief Act of 1997, which the Administration supported, further
> increasing
> of ~~the~~ contribution limits for Educations IRAs will not generate
> significant ~~additional savings. incentive for families~~ to increase their
> savings for educational purposes. Instead, S. 1134 would reward families,
> particularly those with substantial incomes, for what they are already
> doing.
>

> S. 1134 would also create significant compliance problems. The bill
> permits tax-free withdrawals from Education IRAs for, among other things,
> tuition, fees, academic tutoring, special needs services, books, supplies
> and equipment expenses incurred in connection with enrollment or
> attendance
> in a public or private elementary or secondary schools. Distinguishing
> between withdrawals that should be not subject to tax and those that
> should
> will add significant record-keeping requirements for families and schools
> and will lead to frequent disputes about the use of the withdrawals for
> discretionary purchases.
>
> Pay-As-You-Go Scoring
>
> S. 1134 would affect receipts; therefore, it is subject to the
> pay-as-you-go requirement of the Omnibus Reconciliation Act of 1990. The
> Administration has not yet completed its scoring of the bill.
>
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> * * * * * * *
>
>
>
>
> (See attached file: s1134saptop.wpd)
>
>
>
> <<s1134saptop.wpd>>

- s1134saptop.wpd

DRAFT -- NOT FOR RELEASE

February 23, 2000
(Senate)

S. 1134 - Affordable Education Act
(Roth (R) Delaware)

If S. 1134 were presented to the President, the Secretaries of Education and the Treasury would recommend that he veto the bill because it is bad education policy and bad tax policy.

Every American child deserves a high-quality elementary and secondary education. Targeting limited Federal resources to build stronger public schools will help ensure that all our Nation's children receive the education they need to become productive citizens. S. 1134 falls far short of adequately addressing the problems States and local communities face of record-braking enrollments, meeting high standards for learning and discipline, and modernizing and repainting school buildings.

S. 1134 would disproportionately benefit the most affluent families and provide little benefit to lower- and middle-income families. Moreover, given the expansion of tax-preferred savings vehicles in the Taxpayer Relief Act of 1997, which the Administration supported, further increasing of the contribution limits for Educations IRAs will not generate significant additional savings. incentive for families to increase their savings for educational purposes. Instead, S. 1134 would reward families, particularly those with substantial incomes, for what they are already doing.

S. 1134 would also create significant compliance problems. The bill permits tax-free withdrawals from Education IRAs for, among other things, tuition, fees, academic tutoring, special needs services, books, supplies and equipment expenses incurred in connection with enrollment or attendance in a public or private elementary or secondary schools. Distinguishing between withdrawals that should be not subject to tax and those that should will add significant record-keeping requirements for families and schools and will lead to frequent disputes about the use of the withdrawals for discretionary purchases.

Pay-As-You-Go Scoring

S. 1134 would affect receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Reconciliation Act of 1990. The Administration has not yet completed its scoring of the bill.

* * * * * * *

COSPONSOR(S):

NONE

MOST RECENT SUMMARY:

5/26/1999--Introduced.

TABLE OF CONTENTS:

Affordable Education Act of 1999 - **Title I: Education Savings Incentives** - Amends the Internal Revenue Code to increase the maximum annual contribution allowed to an education individual retirement account. Permits eligible educational institutions to maintain qualified tuition programs.

Title II: Educational Assistance - Extends the termination date for the exclusion of employer provided educational assistance provisions. Eliminates the 60 month limit on the student loan interest deduction. Excludes from gross income certain amounts received under the National Public Health Service Corps Scholarship Program and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program.

Title III: Liberalization of Tax-Exempt Financing Rules for Public School Construction - Increases the amount by which certain governmental bonds used to finance public school capital expenditures may be exempted from specified arbitrage bond provisions. Provides for the treatment of qualified public educational facility bonds as exempt facility bonds. Permits aggregate Federal guarantees of up to $500 million in school construction bonds by the Federal Housing Finance Board.

Title IV: Revenue Provisions - Modifies the foreign tax credit carryback and carryover periods. Limits the use of the non-accrual experience method of accounting under provisions relating to special rules for services. Amends provisions involving returns relating to the cancellation of indebtedness by certain entities to include within the definition of "applicable financial entity" any organization a significant trade or business of which is the lending of money. Directs the Secretary to establish a program requiring the payment of user fees for requests to the IRS for ruling letters, opinion letters, determination letters, and other similar requests (terminates fees October 1, 2009). Revises provisions concerning a corporation, its shareholders, and the transferring of certain assets and liabilities. Disallows a deduction for the transfer of a charitable contribution to or for the use of a State or charitable tax-exempt organization or trust if in connection with such transfer: (1) the organization directly or indirectly pays, or has previously paid, any premium on any personal benefit contract (life insurance, annuity, or endowment contract, also known as charitable split-dollar life insurance) with respect to the transferor; or (2) there is an understanding (side agreement) that any person will directly or indirectly pay any premium on such contract with respect to such transferor. Prohibits transfers of excess pension assets to retiree health account made after September 30, 2009 (currently, after December 31, 2000), from being treated as qualified transfers. Modifies rules relating to the exemption of certain ten or more employer plans from welfare benefit fund provisions. Prohibits, in general, the use of the installment method of accounting for accrual method dispositions. Adds to the list of taxable vaccines any conjugate vaccine of streptococcus pneumoniae.

Calendar No. 124

106th CONGRESS

1st Session

S. 1134

[Report No. 106-54]

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, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

May 26, 1999

Read twice and placed on the calendar

S 1134 PCS

Calendar No. 124

106th CONGRESS

1st Session

S. 1134

[Report No. 106-54]

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.

IN THE SENATE OF THE UNITED STATES

May 26, 1999

Mr. ROTH, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

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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, to increase the maximum annual amount of contributions to such accounts, and for other purposes.

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

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE; TABLE OF CONTENTS.

(a) SHORT TITLE- This Act may be cited as the 'Affordable Education Act of 1999'.

(b) AMENDMENT OF 1986 CODE- Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS- The table of contents for this Act is as follows:

TITLE I--EDUCATION SAVINGS INCENTIVES

SEC. 101. MODIFICATIONS TO EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.

(a) MAXIMUM ANNUAL CONTRIBUTIONS-

(1) IN GENERAL- Section 530(b)(1)(A)(iii) (defining education individual retirement account) is amended by striking '$500' and inserting 'the contribution limit for such taxable year'.

(2) CONTRIBUTION LIMIT- Section 530(b) (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

'(4) CONTRIBUTION LIMIT- The term 'contribution limit' means $500 ($2,000 in the case of any taxable year beginning after December 31, 1999, and ending before January 1, 2004).'

(3) CONFORMING AMENDMENT- Section 4973(e)(1)(A) is amended by striking '$500' and inserting 'the contribution limit (as defined in section 530(b)(4)) for such taxable year'.

(b) TAX-FREE EXPENDITURES FOR ELEMENTARY AND SECONDARY SCHOOL EXPENSES-

(1) IN GENERAL- Section 530(b)(2) (defining qualified higher education expenses) 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 (5)).

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

'(B) QUALIFIED STATE TUITION PROGRAMS- Such term shall include any contribution to a qualified State tuition program (as defined in section 529(b)) on behalf of the designated beneficiary (as defined in section 529(e)(1)); but there shall be no increase in the investment in the contract for purposes of applying section 72 by reason of any portion of such contribution which is not includible in gross income by reason of subsection (d)(2).'

(2) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES- Section 530(b) (relating to definitions and special rules), as amended by subsection (a)(2), is amended by adding at the end the following new paragraph:

'(5) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES-

'(A) IN GENERAL- The term 'qualified elementary and secondary education expenses' means--

'(i) expenses for tuition, fees, academic tutoring, special needs services, books, supplies, computer equipment (including related software and services), and other equipment which are incurred in connection with the enrollment or attendance of the designated beneficiary of the trust as an elementary or secondary school student at a public, private, or religious school, and

'(ii) expenses for room and board, uniforms, transportation, and supplementary items and services (including extended 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, 1999, and before January 1, 2004, 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- Section 530 is amended--

(A) by striking 'higher' each place it appears in subsections (b)(1) and (d)(2), and

(B) by striking 'HIGHER' in the heading for subsection (d)(2).

(c) WAIVER OF AGE LIMITATIONS FOR CHILDREN WITH SPECIAL NEEDS- Section 530(b)(1) (defining education individual retirement account) is amended by adding at the end the following flush sentence:

'The age limitations in the preceding sentence and paragraphs (5) and (6) of subsection (d) shall not apply to any designated beneficiary with special needs (as determined under regulations prescribed by the Secretary).'

(d) ENTITIES PERMITTED TO CONTRIBUTE TO ACCOUNTS- Section 530(c)(1) (relating to reduction in permitted contributions based on adjusted gross income) 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) TIME WHEN CONTRIBUTIONS DEEMED MADE-

(1) IN GENERAL- Section 530(b) (relating to definitions and special rules), as amended by subsection (b)(2), is amended by adding at the end the following new paragraph:

'(6) TIME WHEN CONTRIBUTIONS DEEMED MADE- An individual shall be deemed to have made a contribution to an education individual retirement account on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).'

(2) EXTENSION OF TIME TO RETURN EXCESS CONTRIBUTIONS- Subparagraph (C)

of section 530(d)(4) (relating to additional tax for distributions not used for educational expenses) is amended--

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

'(i) such distribution is made before the 1st day of the 6th month of the taxable year following the taxable year, and', and

(B) by striking 'DUE DATE OF RETURN' in the heading and inserting 'JUNE'.

(f) COORDINATION WITH HOPE AND LIFETIME LEARNING CREDITS AND QUALIFIED TUITION PROGRAMS-

(1) IN GENERAL- Section 530(d)(2)(C) is amended to read as follows:

'(C) COORDINATION WITH HOPE AND LIFETIME LEARNING CREDITS AND QUALIFIED TUITION PROGRAMS-

'(i) CREDIT COORDINATION-

'(I) IN GENERAL- Except as provided in subclause (II), subparagraph (A) shall not apply for any taxable year to any qualified higher education expenses with respect to any individual if a credit is allowed under section 25A with respect to such expenses for such taxable year.

'(II) SPECIAL COORDINATION RULE- In the case of any taxable year beginning after December 31, 1999, and before January 1, 2004, subclause (I) shall not apply, but the total amount of qualified higher education expenses otherwise taken into account under subparagraph (A) with respect to an individual for such taxable year shall be reduced (after the application of the reduction provided in section 25A(g)(2)) by the amount of such expenses which were taken into account in determining the credit allowed to the taxpayer or any other person under section 25A with respect to such expenses.

'(ii) COORDINATION WITH QUALIFIED TUITION PROGRAMS- If the aggregate distributions to which subparagraph (A) and section 529(c)(3)(B) apply exceed the total amount of qualified higher education expenses otherwise taken into account under subparagraph (A) (after the application of clause (i)) with respect to an individual for any taxable year, the taxpayer shall allocate such expenses among such distributions for purposes of determining the amount of the exclusion under subparagraph (A) and section 529(c)(3)(B).'

(2) CONFORMING AMENDMENTS-

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

'(e) ELECTION NOT TO HAVE SECTION APPLY- A taxpayer may elect not to have this section apply with respect to the qualified tuition and related expenses of an individual for any taxable year.'

(B) Section 135(d)(2)(A) is amended by striking 'allowable' and inserting 'allowed'.

(C) Section 530(b)(2)(A) is amended by striking ', reduced as provided in section 25A(g)(2)'.

(D) Section 530(d)(2)(D) is amended--

(i) by striking 'or credit', and

(ii) by striking 'CREDIT OR' in the heading.

(E) Section 4973(e)(1) is amended by adding 'and' at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

(g) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 102. MODIFICATIONS TO QUALIFIED TUITION PROGRAMS.

(a) ELIGIBLE EDUCATIONAL INSTITUTIONS PERMITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS-

(1) IN GENERAL- Section 529(b)(1) (defining qualified State tuition program) is amended by inserting 'or by 1 or more eligible educational institutions' after 'maintained by a State or agency or instrumentality thereof'.

(2) PRIVATE QUALIFIED TUITION PROGRAMS LIMITED TO BENEFIT PLANS- Clause (ii) of section 529(b)(1)(A) is amended by inserting 'in the case of a program established and maintained by a State or agency or instrumentality thereof,' before 'may make'.

(3) CONFORMING AMENDMENTS-

(A) Sections 72(e)(9), 135(c)(2)(C), 135(d)(1)(D), 529, 530(b)(2)(B), 4973(e), and 6693(a)(2)(C) are each amended by striking 'qualified State tuition' each place it appears and inserting 'qualified tuition'.

(B) The headings for sections 72(e)(9) and 135(c)(2)(C) are each amended by striking 'QUALIFIED STATE TUITION' and inserting 'QUALIFIED TUITION'.

(C) The headings for sections 529(b) and 530(b)(2)(B) are each amended by striking 'QUALIFIED STATE TUITION' and inserting 'QUALIFIED TUITION'.

(D) The heading for section 529 is amended by striking 'state'.

(E) The item relating to section 529 in the table of sections for part VIII of subchapter F of chapter 1 is amended by striking 'State'.

(b) EXCLUSION FROM GROSS INCOME OF EDUCATION DISTRIBUTIONS FROM QUALIFIED TUITION PROGRAMS-

(1) IN GENERAL- Section 529(c)(3)(B) (relating to distributions) is amended to read as follows:

'(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES-

'(i) IN GENERAL- For purposes of this paragraph--

'(I) no amount shall be includible in gross income under subparagraph (A) by reason of a distribution which consists of providing a benefit to the distributee which, if paid for by the distributee, would constitute payment of a qualified higher education expense, and

'(II) the amount which (determined without regard to subclause (I)) would be includible in gross income under subparagraph (A) by reason of any other distribution shall not be so includible in an amount which bears the same ratio to the amount which would be so includible as the

qualified higher education expenses bear to such aggregate distributions.

'(ii) NONAPPLICATION OF CLAUSE- In the case of any taxable year beginning before January 1, 2004, clause (i) shall not apply with respect to any distribution in such taxable year under a qualified tuition program established and maintained by 1 or more eligible educational institutions.

'(iii) IN-KIND DISTRIBUTIONS- Any benefit furnished to a designated beneficiary under a qualified tuition program shall be treated as a distribution to the beneficiary for purposes of this paragraph.

'(iv) COORDINATION WITH HOPE AND LIFETIME LEARNING CREDITS-

'(I) IN GENERAL- Except as provided in subclause (II), clause (i) shall not apply for any taxable year to any qualified higher education expenses with respect to any individual if a credit is allowed under section 25A with respect to such expenses for such taxable year.

'(II) SPECIAL COORDINATION RULE- In the case of any taxable year beginning after December 31, 1999, and before January 1, 2004, subclause (I) shall not apply, but the total amount of qualified higher education expenses otherwise taken into account under clause (i) with respect to an individual for such taxable year shall be reduced (after the application of the reduction provided in section 25A(g)(2)) by the amount of such expenses which were taken into account in determining the credit allowed to the taxpayer or any other person under section 25A with respect to such expenses.

'(v) COORDINATION WITH EDUCATION IRAS- If the aggregate distributions to which clause (i) and section 530(d)(2)(A) apply exceed the total amount of qualified higher education expenses otherwise taken into account under clause (i) (after the application of clause (iv)) with respect to an individual for any taxable year, the taxpayer shall allocate such expenses among such distributions for purposes of determining the amount of the exclusion under clause (i) and section 530(d)(2)(A).'

(2) CONFORMING AMENDMENTS-

(A) Section 135(d)(2)(B) is amended by striking 'section 530(d)(2)' and inserting 'sections 529(c)(3)(B)(i) and 530(d)(2)'.

(B) Section 221(e)(2)(A) is amended by inserting '529,' after '135,'.

(c) BENEFICIARY MAY CHANGE PROGRAM- Section 529(c)(3)(C) (relating to change in beneficiaries) is amended--

(1) by striking 'transferred to the credit' in clause (i) and inserting 'transferred--

'(I) to another qualified tuition program for the benefit of the designated beneficiary, or

'(II) to the credit',

(2) by adding at the end the following new clause:

'(iii) LIMITATION ON CERTAIN ROLLOVERS- Clause (i)(I) shall only apply to the first 3 transfers with respect to a designated beneficiary.', and

(3) by inserting 'OR PROGRAMS' after 'BENEFICIARIES' in the heading.

(d) MEMBER OF FAMILY INCLUDES FIRST COUSIN- Section 529(e)(2) (defining member of family) is amended by striking 'and' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and by inserting '; and', and by adding at the end the following new subparagraph:

'(D) any first cousin of such beneficiary.'

(e) EFFECTIVE DATE- The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

TITLE II--EDUCATIONAL ASSISTANCE

SEC. 201. EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL- Section 127(d) (relating to termination of exclusion for educational assistance programs) is amended by striking 'May 31, 2000' and inserting 'June 30, 2004'.

(b) REPEAL OF LIMITATION ON GRADUATE EDUCATION-

(1) IN GENERAL- The last sentence of section 127(c)(1) is amended by striking ', and such term also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program

leading to a law, business, medical, or other advanced academic or professional degree'.

(2) EFFECTIVE DATE- The amendment made by paragraph (1) shall apply with respect to expenses relating to courses beginning after December 31, 1999.

SEC. 202. ELIMINATION OF 60-MONTH LIMIT ON STUDENT LOAN INTEREST DEDUCTION.

(a) IN GENERAL- Section 221 (relating to interest on education loans) is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(b) CONFORMING AMENDMENT- Section 6050S(e) is amended by striking 'section 221(e)(1)' and inserting 'section 221(d)(1)'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply with respect to any loan interest paid after December 31, 1999.

SEC. 203. EXCLUSION OF CERTAIN AMOUNTS RECEIVED UNDER THE NATIONAL PUBLIC HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM AND THE F. EDWARD HEBERT ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM.

(a) IN GENERAL- Section 117(c) (relating to the exclusion from gross income amounts received as a qualified scholarship) is amended--

(1) by striking 'Subsections (a)' and inserting the following:

'(1) IN GENERAL- Except as provided in paragraph (2), subsections (a)', and

(2) by adding at the end the following new paragraph:

'(2) EXCEPTIONS- Paragraph (1) shall not apply to any amount received by an individual under--

'(A) the National Public Health Service Corps Scholarship Program under section 338A(g)(1)(A) of the Public Health Service Act, or

'(B) the Armed Forces Health Professions Scholarship and Financial Assistance program under subchapter I of chapter 105 of title 10, United States Code.'

(b) EFFECTIVE DATE- The amendments made by subsection (a) shall apply to amounts received in taxable years beginning after December 31, 1993.

TITLE III--LIBERALIZATION OF TAX-EXEMPT FINANCING RULES FOR PUBLIC SCHOOL CONSTRUCTION

SEC. 301. ADDITIONAL INCREASE IN ARBITRAGE REBATE EXCEPTION FOR GOVERNMENTAL BONDS USED TO FINANCE EDUCATIONAL FACILITIES.

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

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall apply to obligations issued in calendar years beginning after December 31, 1999.

SEC. 302. TREATMENT OF QUALIFIED PUBLIC EDUCATIONAL FACILITY BONDS AS EXEMPT FACILITY BONDS.

(a) TREATMENT AS EXEMPT FACILITY BOND- Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking 'or' at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting ', or', and by adding at the end the following new paragraph:

'(13) qualified public educational facilities.'

(b) QUALIFIED PUBLIC EDUCATIONAL FACILITIES- Section 142 (relating to exempt facility bond) is amended by adding at the end the following new subsection:

'(k) QUALIFIED PUBLIC EDUCATIONAL FACILITIES-

'(1) IN GENERAL- For purposes of subsection (a)(13), the term 'qualified public educational facility' means any school facility which is--

'(A) part of a public elementary school or a public secondary school, and

'(B) owned by a private, for-profit corporation pursuant to a public-private partnership agreement with a State or local educational agency described in paragraph (2).

'(2) PUBLIC-PRIVATE PARTNERSHIP AGREEMENT DESCRIBED- A public-private partnership agreement is described in this paragraph if it is an agreement--

'(A) under which the corporation agrees--

'(i) to do 1 or more of the following: construct, rehabilitate, refurbish, or equip a school facility, and

'(ii) at the end of the term of the agreement, to transfer the school facility to such agency for no additional consideration, and

'(B) the term of which does not exceed the term of the issue to be used to provide the school facility.

'(3) SCHOOL FACILITY- For purposes of this subsection, the term 'school facility' means--

'(A) school buildings,

'(B) functionally related and subordinate facilities and land with respect to such buildings, including any stadium or other facility primarily used for school events, and

'(C) any property, to which section 168 applies (or would apply but for section 179), for use in the facility.

'(4) PUBLIC SCHOOLS- For purposes of this subsection, the terms 'elementary school' and 'secondary school' have the meanings given such terms by section 14101 of the Elementary and Secondary

Education Act of 1965 (20 U.S.C. 8801), as in effect on the date of the enactment of this subsection.

'(5) ANNUAL AGGREGATE FACE AMOUNT OF TAX-EXEMPT FINANCING-

'(A) IN GENERAL- An issue shall not be treated as an issue described in subsection (a)(13) if the aggregate face amount of bonds issued by the State pursuant thereto (when added to the aggregate face amount of bonds previously so issued during the calendar year) exceeds an amount equal to the greater of--

'(i) $10 multiplied by the State population, or

'(ii) $5,000,000.

'(B) ALLOCATION RULES-

'(i) IN GENERAL- Except as otherwise provided in this subparagraph, the State may allocate the amount described in subparagraph (A) for any calendar year in such manner as the State determines appropriate.

'(ii) RULES FOR CARRYFORWARD OF UNUSED LIMITATION- A State may elect to carry forward an unused limitation for any calendar year for 3 calendar years following the calendar year in which the unused limitation arose under rules similar to the rules of section 146(f), except that the only purpose for which the carryforward may be elected is the issuance of exempt facility bonds described in subsection (a)(13).'

(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS- Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended--

(1) by striking 'or (12)' and inserting '(12), or (13)', and

(2) by striking 'and environmental enhancements of hydroelectric generating facilities' and inserting 'environmental enhancements of hydroelectric generating facilities, and qualified public educational facilities'.

(d) EXEMPTION FROM LIMITATION ON USE FOR LAND ACQUISITION- Section 147(h) (relating to certain rules not to apply to mortgage revenue bonds, qualified student loan bonds, and qualified 501(c)(3) bonds) is amended by adding at the end the following new paragraph:

'(3) EXEMPT FACILITY BONDS FOR QUALIFIED PUBLIC-PRIVATE SCHOOLS- Subsection (c) shall not apply to any exempt facility bond issued as part of an issue described in section 142(a)(13) (relating to qualified public educational facilities).'

(e) CONFORMING AMENDMENT- The heading for section 147(h) is amended by striking 'MORTGAGE REVENUE BONDS, QUALIFIED STUDENT LOAN BONDS, AND QUALIFIED 501(c)(3) BONDS' and inserting 'CERTAIN BONDS'.

(f) EFFECTIVE DATE- The amendments made by this section shall apply to bonds issued after December 31, 1999.

SEC. 303. FEDERAL GUARANTEE OF SCHOOL CONSTRUCTION BONDS BY FEDERAL HOUSING FINANCE BOARD.

(a) IN GENERAL- Section 149(b)(3) (relating to exceptions) is amended by adding at the end the following new subparagraph:

'(E) CERTAIN GUARANTEED SCHOOL CONSTRUCTION BONDS- Any bond issued as part of an issue 95 percent or more of the net proceeds of which are used for public school construction shall not be treated as federally guaranteed for any calendar year by reason of any guarantee by the Federal Housing Finance Board (through any Federal Home Loan Bank) under the Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.), as in effect on the date of the enactment of this subparagraph, to the extent the face amount of such bond, when added to the aggregate face amount of such bonds previously so guaranteed for such year, does not exceed $500,000,000.'

(b) EFFECTIVE DATE- The amendment made by this section shall apply to bonds issued after December 31, 1999.

TITLE IV--REVENUE PROVISIONS

SEC. 401. MODIFICATION TO FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS.

(a) IN GENERAL- Section 904(c) (relating to limitation on credit) is amended--

(1) by striking 'in the second preceding taxable year,', and

(2) by striking 'or fifth' and inserting 'fifth, sixth, or seventh'.

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall apply to credits arising in taxable years beginning after December 31, 2001.

SEC. 402. LIMITATION ON USE OF NON-ACCRUAL EXPERIENCE METHOD OF ACCOUNTING.

(a) IN GENERAL- Section 448(d)(5) (relating to special rule for services) is amended--

(1) by inserting 'in fields described in paragraph (2)(A)' after 'services by such person', and

(2) by inserting 'CERTAIN PERSONAL' before 'SERVICES' in the heading.

(b) EFFECTIVE DATE-

(1) IN GENERAL- The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING- In the case of any taxpayer required by the amendments made by this section to change its method of accounting for its first taxable year ending after the date of the enactment of this Act--

(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 over a period (not greater than 4 taxable years) beginning with such first taxable year.

SEC. 403. RETURNS RELATING TO CANCELLATIONS OF INDEBTEDNESS BY ORGANIZATIONS LENDING MONEY.

(a) IN GENERAL- Paragraph (2) of section 6050P(c) (relating to definitions and special rules) is amended by striking 'and' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ', and', and by inserting after subparagraph (C) the following new subparagraph:

'(D) any organization a significant trade or business of which is the lending of money.'

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall apply to discharges of indebtedness after December 31, 1999.

SEC. 404. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

(a) IN GENERAL- Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

'SEC. 7527. INTERNAL REVENUE SERVICE USER FEES.

'(a) GENERAL RULE- The Secretary shall establish a program requiring the payment of user fees for--

'(1) requests to the Internal Revenue Service for ruling letters, opinion letters, and determination letters, and

'(2) other similar requests.

'(b) PROGRAM CRITERIA-

'(1) IN GENERAL- The fees charged under the program required by subsection (a)--

'(A) shall vary according to categories (or subcategories) established by the Secretary,

'(B) shall be determined after taking into account the average time for (and difficulty of) complying with requests in each category (and subcategory), and

'(C) shall be payable in advance.

'(2) EXEMPTIONS, ETC- The Secretary shall provide for such exemptions (and reduced fees) under such program as the Secretary determines to be appropriate.

'(3) AVERAGE FEE REQUIREMENT- The average fee charged under the program required by subsection (a) shall not be less than the amount determined under the following table:

'Category	Average Fee
Employee plan ruling and opinion	$250
Exempt organization ruling	$350
Employee plan determination	$300
Exempt organization determination	$275
Chief counsel ruling	$200.

'(c) TERMINATION- No fee shall be imposed under this section with respect to requests made after September 30, 2009.'

(b) CONFORMING AMENDMENTS-

(1) The table of sections for chapter 77 is amended by adding at the end the following new item:

'Sec. 7527. Internal Revenue Service user fees.'

(2) Section 10511 of the Revenue Act of 1987 is repealed.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to requests made after the date of the enactment of this Act.

SEC. 405. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST-

(1) SECTION 357- Section 357(a)(2) (relating to assumption of liability) is amended by striking ', or acquires from the taxpayer property subject to a liability'.

(2) SECTION 358- Section 358(d)(1) (relating to assumption of liability) is amended by striking 'or acquired from the taxpayer property subject to a liability'.

(3) SECTION 368-

(A) Section 368(a)(1)(C) is amended by striking ', or the fact that property acquired is subject to a liability,'.

(B) The last sentence of section 368(a)(2)(B) is amended by striking ', and the amount of any liability to which any property acquired from the acquiring corporation is subject,'.

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY-

(1) IN GENERAL- Section 357 is amended by adding at the end the following new subsection:

'(d) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED-

'(1) IN GENERAL- For purposes of this section, section 358(d), section 362(d), section 368(a)(1)(C), and section 368(a)(2)(B), except as provided in regulations--

'(A) a recourse liability (or portion thereof) shall be treated as having been assumed if, as determined on the basis of all facts and circumstances, the transferee has agreed to, and is expected to, satisfy such liability (or portion),

whether or not the transferor has been relieved of such liability, and

'(B) except to the extent provided in paragraph (2), a nonrecourse liability shall be treated as having been assumed by the transferee of any asset subject to such liability.

'(2) EXCEPTION FOR NONRECOURSE LIABILITY- The amount of the nonrecourse liability treated as described in paragraph (1)(B) shall be reduced by the lesser of--

'(A) the amount of such liability which an owner of other assets not transferred to the transferee and also subject to such liability has agreed with the transferee to, and is expected to, satisfy, or

'(B) the fair market value of such other assets (determined without regard to section

7701(g)).

'(3) REGULATIONS- The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection and section 362(d). The Secretary may also prescribe regulations which provide that the manner in which a liability is treated as assumed under this subsection is applied, where appropriate, elsewhere in this title.'

(2) LIMITATION ON BASIS INCREASE ATTRIBUTABLE TO ASSUMPTION OF LIABILITY- Section 362 is amended by adding at the end the following new subsection:

'(d) LIMITATION ON BASIS INCREASE ATTRIBUTABLE TO ASSUMPTION OF LIABILITY-

'(1) IN GENERAL- In no event shall the basis of any property be increased under subsection (a) or (b) above the fair market value of such property (determined without regard to section 7701(g)) by reason of any gain recognized to the transferor as a result of the assumption of a liability.

'(2) TREATMENT OF GAIN NOT SUBJECT TO TAX- Except as provided in regulations, if--

'(A) gain is recognized to the transferor as a result of an assumption of a nonrecourse liability by a transferee which is also secured by assets not transferred to such transferee, and

'(B) no person is subject to tax under this title on such gain,

then, for purposes of determining basis under subsections (a) and (b), the amount of gain recognized by the transferor as a result of the assumption of the liability shall be determined as if the liability assumed by the transferee equaled such transferee's ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all of the assets subject to such liability.'

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C-

(1) SECTION 584- Section 584(h)(3) is amended--

(A) by striking ', and the fact that any property transferred by the common trust fund is subject to a liability,' in subparagraph (A), and

(B) by striking clause (ii) of subparagraph (B) and inserting:

'(ii) ASSUMED LIABILITIES- For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

'(C) ASSUMPTION- For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(d) shall apply.'

(2) SECTION 1031- The last sentence of section 1031(d) is amended--

(A) by striking 'assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability' and inserting 'assumed (as determined under section 357(d)) a liability of the taxpayer', and

(B) by striking 'or acquisition (in the amount of the liability)'.

(d) CONFORMING AMENDMENTS-

(1) Section 351(h)(1) is amended by striking ', or acquires property subject to a liability,'.

(2) Section 357 is amended by striking 'or acquisition' each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) is amended by striking 'or acquired'.

(4) Section 357(c)(1) is amended by striking ', plus the amount of the liabilities to which the property is subject,'.

(5) Section 357(c)(3) is amended by striking 'or to which the property transferred is subject'.

(6) Section 358(d)(1) is amended by striking 'or acquisition (in the amount of the liability)'.

(e) EFFECTIVE DATE- The amendments made by this section shall apply to transfers after October 19, 1998.

SEC. 406. CHARITABLE SPLIT-DOLLAR LIFE INSURANCE, ANNUITY, AND ENDOWMENT CONTRACTS.

(a) IN GENERAL- Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

'(10) SPLIT-DOLLAR LIFE INSURANCE, ANNUITY, AND ENDOWMENT CONTRACTS-

'(A) IN GENERAL- Nothing in this section or in section 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 shall be construed to allow a deduction, and no deduction shall be allowed, for any transfer to or for the use of an organization described in subsection (c) if in connection with such transfer--

'(i) the organization directly or indirectly pays, or has previously paid, any premium on any personal benefit contract with respect to the transferor, or

'(ii) there is an understanding or expectation that any person will directly or indirectly pay any premium on any personal benefit contract with respect to the transferor.

'(B) PERSONAL BENEFIT CONTRACT- For purposes of subparagraph (A), the term 'personal benefit contract' means, with respect to the transferor, any life insurance, annuity, or endowment contract if any direct or indirect beneficiary under such contract is the transferor, any member of the transferor's family, or any other person (other than an organization described in subsection (c)) designated by the transferor.

'(C) APPLICATION TO CHARITABLE REMAINDER TRUSTS- In the case of a transfer to a trust referred to in subparagraph (E), references in subparagraphs (A) and (F) to an organization described in subsection (c) shall be treated as a reference to such trust.

'(D) EXCEPTION FOR CERTAIN ANNUITY CONTRACTS- If, in connection with a transfer to or for the use of an organization described in subsection (c), such organization incurs an obligation to pay a charitable gift annuity (as defined in section 501(m)) and such organization purchases any annuity contract to fund such obligation, persons receiving payments under the charitable gift annuity shall not be treated for purposes of subparagraph (B) as indirect beneficiaries under such contract if--

'(i) such organization possesses all of the incidents of ownership under such contract,

'(ii) such organization is entitled to all the payments under such contract, and

'(iii) the timing and amount of payments under such contract are substantially the same as the timing and amount of payments to each such person under such obligation (as such obligation is in effect at the time of such transfer).

'(E) EXCEPTION FOR CERTAIN CONTRACTS HELD BY CHARITABLE REMAINDER TRUSTS- A person shall not be treated for purposes of subparagraph (B) as an indirect beneficiary under any life insurance, annuity, or endowment contract held by a charitable remainder annuity trust or a charitable remainder unitrust (as defined in section 664(d)) solely by reason of being entitled to any payment referred to in paragraph (1)(A) or (2)(A) of section 664(d) if--

'(i) such trust possesses all of the incidents of ownership under such contract, and

'(ii) such trust is entitled to all the payments under such contract.

'(F) EXCISE TAX ON PREMIUMS PAID-

'(i) IN GENERAL- There is hereby imposed on any organization described in subsection (c) an excise tax equal to the premiums paid by such organization on any life insurance, annuity, or endowment contract if the payment of premiums on such contract is in connection with a transfer for which a deduction is not allowable under subparagraph (A), determined without regard to when such transfer is made.

'(ii) PAYMENTS BY OTHER PERSONS- For purposes of clause (i), payments made by any other person pursuant to an understanding or expectation referred to in subparagraph (A) shall be treated as made by the organization.

'(iii) REPORTING- Any organization on which tax is imposed by clause (i) with respect to any premium shall file an annual return which includes--

'(I) the amount of such premiums paid during the year and the name and TIN of each beneficiary under the contract to which the premium relates, and

'(II) such other information as the Secretary may require.

The penalties applicable to returns required under section 6033 shall apply to returns required under this clause. Returns required under this clause shall be furnished at such time and in such manner as the Secretary shall by forms or regulations require.

'(iv) CERTAIN RULES TO APPLY- The tax imposed by this subparagraph shall be treated as imposed by chapter 42 for purposes of this title other than subchapter B of chapter 42.

'(G) SPECIAL RULE WHERE STATE REQUIRES SPECIFICATION OF CHARITABLE GIFT ANNUITANT IN CONTRACT- In the case of an obligation to pay a charitable gift annuity referred to in subparagraph (D) which is entered into under the laws of a State which requires, in order for the charitable gift annuity to be exempt from insurance regulation by such State, that each beneficiary under the charitable gift annuity be named as a beneficiary under an annuity contract issued by an insurance company authorized to transact business in such State, the requirements of clauses (i) and (ii) of subparagraph (D) shall be treated as met if--

'(i) such State law requirement was in effect on February 8, 1999,

'(ii) each such beneficiary under the charitable gift annuity is a bona fide resident of such State at the time the obligation to pay a charitable gift annuity is entered into, and

'(iii) the only persons entitled to payments under such contract are persons entitled to payments as beneficiaries under such obligation on the date

such obligation is entered into.

'(H) REGULATIONS- The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations to prevent the avoidance of such purposes.'

(b) EFFECTIVE DATE-

(1) IN GENERAL- Except as otherwise provided in this section, the amendment made by this section shall apply to transfers made after February 8, 1999.

(2) EXCISE TAX- Except as provided in paragraph (3) of this subsection, section 170(f)(10)(F) of the Internal Revenue Code of 1986 (as added by this section) shall apply to premiums paid after the date of the enactment of this Act.

(3) REPORTING- Clause (iii) of such section 170(f)(10)(F) shall apply to premiums paid after

February 8, 1999 (determined as if the tax imposed by such section applies to premiums paid after such date).

SEC. 407. TRANSFER OF EXCESS DEFINED BENEFIT PLAN ASSETS FOR RETIREE HEALTH BENEFITS.

(a) EXTENSION-

(1) IN GENERAL- Section 420(b)(5) (relating to expiration) is amended by striking 'in any taxable year beginning after December 31, 2000' and inserting 'made after September 30, 2009'.

(2) CONFORMING AMENDMENTS-

(A) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking '1995' and inserting '2001'.

(B) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking '1995' and inserting '2001'.

(C) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(13)) is amended--

(i) by striking 'in a taxable year beginning before January 1, 2001' and inserting 'made before October 1, 2009', and

(ii) by striking '1995' and inserting '2001'.

(b) APPLICATION OF MINIMUM COST REQUIREMENTS-

(1) IN GENERAL- Section 420(c)(3) is amended to read as follows:

'(3) MINIMUM COST REQUIREMENTS-

'(A) IN GENERAL- The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the cost maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

'(B) APPLICABLE EMPLOYER COST- For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing--

'(i) the qualified current retiree health liabilities of the employer for such taxable year determined--

'(I) without regard to any reduction under subsection (e)(1)(B), and

'(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

'(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

'(C) ELECTION TO COMPUTE COST SEPARATELY- An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

'(D) COST MAINTENANCE PERIOD- For purposes of this paragraph, the term 'cost maintenance period' means the period of 5 taxable years beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping cost maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.'

(2) CONFORMING AMENDMENTS-

(A) Section 420(b)(1)(C)(iii) is amended by striking 'benefits' and inserting 'cost'.

(B) Section 420(e)(1)(D) is amended by striking 'and shall not be subject to the minimum benefit requirements of subsection (c)(3)' and inserting 'or in calculating applicable employer cost under subsection (c)(3)(B)'.

(c) EFFECTIVE DATE- The amendments made by this section shall apply to qualified transfers occurring after December 31, 2000, and before October 1, 2009.

SEC. 408. LIMITATIONS ON WELFARE BENEFIT FUNDS OF 10 OR MORE EMPLOYER PLANS.

(a) BENEFITS TO WHICH EXCEPTION APPLIES- Section 419A(f)(6)(A) (relating to exception for 10 or more employer plans) is amended to read as follows:

'(A) IN GENERAL- This subpart shall not apply to a welfare benefit fund which is part of a 10 or more employer plan if the only benefits provided through the fund are 1 or more of the following:

'(i) Medical benefits.

'(ii) Disability benefits.

'(iii) Group term life insurance benefits which do not provide for any cash surrender value or other money that can be paid, assigned, borrowed, or pledged for collateral for a loan.

The preceding sentence shall not apply to any plan which maintains experience-rating arrangements with respect to individual employers.'

(b) LIMITATION ON USE OF AMOUNTS FOR OTHER PURPOSES- Section 4976(b) (defining disqualified benefit) is amended by adding at the end the following new paragraph:

'(5) SPECIAL RULE FOR 10 OR MORE EMPLOYER PLANS EXEMPTED FROM PREFUNDING LIMITS- For purposes of paragraph (1)(C), if--

'(A) subpart D of part I of subchapter D of chapter 1 does not apply by reason of section 419A(f)(6) to contributions to provide 1 or more welfare benefits through a welfare benefit fund under a 10 or more employer plan, and

'(B) any portion of the welfare benefit fund attributable to such contributions is used for a purpose other than that for which the contributions were made,

then such portion shall be treated as reverting to the benefit of the employers maintaining the fund.'

(c) EFFECTIVE DATE- The amendments made by this section shall apply to contributions paid or accrued after the date of the enactment of this Act, in taxable years ending after such date.

SEC. 409. MODIFICATION OF INSTALLMENT METHOD AND REPEAL OF INSTALLMENT METHOD FOR ACCRUAL METHOD TAXPAYERS.

(a) REPEAL OF INSTALLMENT METHOD FOR ACCRUAL BASIS TAXPAYERS-

(1) IN GENERAL- Subsection (a) of section 453 (relating to installment method) is amended to read as follows:

'(a) USE OF INSTALLMENT METHOD-

'(1) IN GENERAL- Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the installment method.

'(2) ACCRUAL METHOD TAXPAYER- The installment method shall not apply to income from an installment sale if such income would be reported under an accrual method of accounting without regard to this section. The preceding sentence shall not apply to a disposition described in subparagraph (A) or (B) of subsection (l)(2).'

(2) CONFORMING AMENDMENTS- Sections 453(d)(1), 453(i)(1), and 453(k) are each amended by striking '(a)' each place it appears and inserting '(a)(1)'.

(b) MODIFICATION OF PLEDGE RULES- Paragraph (4) of section 453A(d) (relating to pledges, etc., of installment obligations) is amended by adding at the end the following: 'A payment shall be treated as directly secured by an interest in an installment obligation to the extent an arrangement allows the taxpayer to satisfy all or a portion of the indebtedness with the installment obligation.'

(c) EFFECTIVE DATE- The amendments made by this section shall apply to sales or other dispositions occurring on or after the date of the enactment of this Act.

SEC. 410. INCLUSION OF CERTAIN VACCINES AGAINST STREPTOCOCCUS PNEUMONIAE TO LIST OF TAXABLE VACCINES.

(a) IN GENERAL- Section 4132(a)(1) (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

'(L) Any conjugate vaccine against streptococcus pneumoniae.'

(b) EFFECTIVE DATE-

(1) SALES- The amendment made by this section shall apply to vaccine sales beginning on the day after the date on which the Centers for Disease Control makes a final recommendation for routine administration to children of any conjugate vaccine against streptococcus pneumoniae.

(2) DELIVERIES- For purposes of paragraph (1), in the case of sales on or before the date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

END

file: tuition tax credit

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

September 1, 1999

MEMORANDUM

URGENT

TO: Legislative Services Officers
Attn: Ms. Gromek, OIG
Mr. Holloway, OCFO/OCIO
Ms. Lewis, ODS/OUS
Mr. March, OSERS
Ms. McLaughlin, OPE
Ms. Rairdin, OLCA
Mr. Sims, OIIIA
Ms. Stack, OSFA
Ms. Warner, OESE
Mr. Weintraub, OVAE
Office of the General Counsel
Attn: Ms. Craig
Mr. Jenkins
Mr. Rosenfelt

FROM: Paul Riddle *Paul R*
Division of Legislative Counsel

SUBJECT: Draft enrolled bill report on H.R. 2488, the "Taxpayer Refund and Relief Act of 1999"

Attached, for your review, is a draft letter from the Secretary to the Director of OMB recommending that the President veto H.R. 2488, the Taxpayer Refund and Relief Act of 1999. Once the bill is presented to the President, which could occur at any time after Congress returns next week, the Secretary will have two days to send such a letter.

Please give me your written comments on the draft, including specific language for any changes you recommend, by noon next Tuesday, September 7. I am in Room 6E310, FB-6, and can be reached at 401-6269.

Thanks.

Attachment

cc: Mr. Peterson, OS
Mr. Smith, ODS
Ms. Winston
Mr. Wexler

Mr. Fleming, OLCA
Mr. Cohen, OS
Ms. Dozier, OS
Ms. Frost, OS
Ms. Brennan, OS
Ms. Rogers, ODS
Ms. O'Leary, ODS
Mr. Kelley, OLCA
Ms. Amdur, OLCA
Ms. Jones, OUS/BS
Mr. Traversa, OUS/BS
Mr. Feuerstein, ODS
Mr. Corwin, OESE

Ms. Veta
Mr. Kristy
Ms. Templeman
Ms. Somerville

DRAFT
SEPTEMBER 1, 1999
11:30 AM

Honorable Jacob J. Lew
Director
Office of Management and Budget
Washington, DC 20503

Dear Director Lew:

I am writing to recommend that the President disapprove H.R. 2488, an enrolled bill entitled the "Taxpayer Refund and Relief Act of 1998." While the bill is principally of interest to the Secretary of the Treasury, to whose views I generally defer, the bill's provisions relating to the use of Education IRAs for private school expenses, as well as its approach to promoting construction of public schools, warrant the President's veto.

Use of Education IRAs for Private School Expenses

Every American child deserves a high-quality elementary and secondary education. Targeting limited Federal resources to build stronger public schools, as the President has proposed through a variety of initiatives, will help ensure that all our Nation's children receive the education they need to become productive citizens. Section 401 of the enrolled bill would take the opposite approach and divert needed resources from these schools by affording tax benefits to parents who use the earnings from Education IRAs to pay for private school tuition, room and board, transportation, and certain other expenses. These tax benefits would do very little for average families and would disproportionately benefit the most affluent families. According to Congress' own Joint Committee on Taxation's analysis of a substantively identical proposal that the President vetoed last year, H.R. 2488 would result in an average benefit of just $7 for the 90 percent of families with children in public schools and only $37 for families with children in private schools. Moreover, the bill would not create a significant incentive for families to increase their savings for educational purposes; it would instead reward families, particularly those with substantial incomes, for what they already do. This is not the way to improve education for all our children.

School Construction

Sections 405 and 406 of the enrolled bill represent an unacceptable approach to addressing the urgent need for construction and renovation of public schools throughout the Nation. The President has proposed to address this problem by authorizing tax-credit bonds that would, in effect, pay the interest on nearly $25 billion in bonds to build and renovate up to 6,000 public schools, with the tax benefits targeted at school districts with the greatest needs and the least ability to meet them.

By contrast, the enrolled bill would attempt to promote school construction by liberalizing the "arbitrage" rules under which State and local governments can invest the proceeds of tax-exempt bonds and retain their earnings, instead of rebating them to the Treasury. This mechanism is woefully inadequate to meet the scope of the problem and is not targeted to those communities that are in greatest need and have the least ability to finance the construction of new schools. Instead, it favors wealthy districts with low borrowing costs that can afford to invest their bond proceeds rather than using them immediately for the costs of construction.

Other Provisions

I support section 404 of the enrolled bill, which would extend, through 2003, the exclusion from employees' income of certain educational assistance provided by their employers, under section 127 of the tax code. Extension of section 127, which the Administration proposed, will expand educational opportunity and increase productivity.

However, I am disappointed that the enrolled bill fails to include the President's proposal to provide tax credits for employers who provide workplace literacy and basic education programs to their employees. Current law, including section 127, does not offer adequate incentive for most employers to provide these programs, which are critical to meeting the need for skilled workers in the 21st century workplace and to ensuring productive employment for the many individuals who enter the work force with low levels of education and skills.

I support section 407 of the bill, which would delete the 60-month limit on the period during which interest paid on certain student loans is deductible under section 221 of the tax code. This deletion, proposed by the Administration, would simplify the calculation of deductible interest payments, avoid inconsistent treatment of taxpayers based on how a lender structures payments, and provide longer-term relief to taxpayers with large educational debt.

I regret that the Congress has missed an opportunity to revise the tax code in a way that would promote the President's education agenda. While the enrolled bill includes some provisions that I support, its proposals to use education IRAs to subsidize private school expenses and to promote school construction through the rules relating to arbitrage are highly objectionable, and I therefore recommend that the President disapprove the bill.

Yours sincerely,

Richard W. Riley

cc:
Scott Fleming
Ann O'Leary

FYI

Kevin

MEMORANDUM

TO: Kevin Sullivan

From: Peggy Kerns,
Adam Honeysett

Date: December 2, 1998

RE: Tuition Tax Credits

According to a study by Education Commission of the States, parental choice of schools is one of today's more controversial public education issues. Many parents want alternatives when choosing schools for their children. Vouchers often initially look good to parents, but become controversial when closely scrutinized. Because school vouchers are so controversial, many voucher proponents are turning to a new mechanism for promoting choice: tuition tax credits. Under such a proposal, the amount of state income taxes that parents of school-age children owe is reduced for use in the school marketplace. (This is opposed to a tax deduction, whereby a reduction in taxable income is made prior to the calculation of tax liability.)

Three state legislatures have passed tuition tax credits laws: **Minnesota** (1955, 1885, 1997), **Iowa** (1987, 1997), **Arizona** (1997). **Minnesota**'s law has a combination of tax deductions and tax credits. It provides a tax credit for families with incomes under $33,5000, limited to $1,000 per child, not to exceed $2,000 per family. Taxpayers may not claim the credit and the deduction for the same education expenses. In 1983, the U.S. Supreme Court ruled the tax deduction program was constitutional.

Under **Iowa**'s program, parents can claim a tax deduction equal to 5% of the first $1,000 they paid to an "eligible education provider"; parents can also claim a tax credit on 25 percent of the first $1,000 spent on private school tuition and non-religious textbooks. Public school extracurricular activity costs are also an acceptable expense. In 1992, a U.S. District Court judge ruled the tax deductions and credits for parents who send their children to private schools are constitutional.

In **Arizona**, taxpayers can claim a tax credit for up to $500 donated to a school tuition organization -- a charitable organization that allocates at least 90 percent of annual revenue for educational scholarships or tuition grants to children and allow them to attend any qualified school of their parents' choice. Arizona's law has not been enacted as it is under review by the Arizona Supreme Court. Opponents say that it violates state and federal constitutional restrictions on the relationship between the government and the church.

State legislatures have had a difficult time passed tax credit laws. For example, in 1997 the **Illinois** legislature passed a tuition tax credit bill that was vetoed by Gov. Jim Edgar. Edgar said the state could not afford the bill, which gave a credit up to $500 a year per child. With

300,000 students, the estimated cost of the bill to the state was at least $100 million. In addition, Illinois' constitution prohibits the use of state funds for private schools.

In 1998, 17 states considered tax credits laws. None passed. **Colorado** was the only state where a tax credit issue was on the ballot in the 1998 General Election. It was brought forward by a citizens initiative, that chose to make it a constitutional amendment. Called "educational opportunity tax credits," the citizens defeated it by 60 percent of the vote.

. Under the proposal, all parents of school-age children were eligible, but in an awkward tiered approach. Following are some reasons for its failure, according to Colorado educators:

- Complicated formula that was difficult to understand.
- Constitutional amendment, without many details spelled out. Operational details left up to state legislature.
- Well-known chief proponent saying, "In every sense operationally, it is a voucher."
- Proponents appealed to parents who send their children to Catholic schools. (Colorado does not have a high Catholic school enrollment.)
- Strong lobby against by teachers' unions.
- Home schooling could also qualify.

Across the nation, similar reasons are given for and against tuition tax credits.

Proponents say tuition tax credits will:

- Lower taxes for parents of school-age children, letting them keep more of their own money to spend as they see fit.

- Enable more families to take advantage of a wide range of education opportunities. In the Colorado proposal, families in the lowest-performing districts, arguably those most in need of alternatives, were granted the highest priority.

- Provide a direct benefit to each taxpayer with a child in school. Currently, parents with children in private schools pay taxes to support public schools but receive no direct benefit.

- Improve public schools through competition.

- Financially strengthen the private-school sector.

Opponents say tax credits would:

- Help wealthy families more than low-income families. Colorado's proposed amendment targeted low-income parents only in the third level of priority. In addition, it required families to pay the private school tuition before reimbursement (via the tax credit) on their next return -- a requirement low-income families often cannot meet.

• Divert dollars from publicly accountable schools to private schools.

• Lower the quality of public education by easing the departure of students and families who are most informed about education choices. Students who most often take advantage of public school choices tend to be from better-educated families. This trend could increasingly segregate the public and private schools along socioeconomic lines.

• Increase the state's involvement in religious matters.

• Increase the state's involvement in personal matters. To calculate the credit, states need to know where each student goes when they leave public school.

The National Conference of State Legislatures is tracking state legislation on school choice. Choice is defined broadly – in other words, any option that gives parents the choice of what public school their child can attend. Their analysis has some interesting points for us to consider:

- There are two ways to sell tax credits:
  1. "middle class tax cut" – the Coverdell approach, A-Plus Savings Accounts
  2. variable school choice. Opens up market, etc.

Proponents of tax credits seem to use #2 as their main argument. However, if the policy goal is increased choice, this argument does not fly. Rarely, does a proposed bill contain enough money to provide true choice through tax credits. And even the minimal is costly. So, legislators look at the issue differently when they see state revenues cut into. As stated above, Gov. Edgar, who likes school vouchers, vetoed Illinois' tax credit bill because it would cost the state so much money.

While vouchers proponents have formed a coalition of low-income, minorities, and dissatisfied parents, tax credits break down the coalition. Tax credits do not much help low income people. State legislators will argue that tax credits help higher income people, and therefore are not fair options for some folks who want school choice.

newtitle: tuition tax credits

IRAs for Private School Tuition (Coverdell Proposal)

Question: What is your position on legislation to permit parents to establish IRA-type accounts for education and exempt the interest from taxation if that money is used for education?

Answer: For a number of reasons, the "A+ Accounts" proposal that the President vetoed last year was a very bad idea. If it comes up again this year, we will oppose it again.

- It would have benefited upper-income families, who have the discretionary resources to make IRA contributions, but would have done nothing to help lower-income people cope with educational costs. The Congressional Joint Committee on Taxation estimated that the bill would have provided a tax break worth, on average:

  - Families with children in public school: $7
  - Families with children in private school: $37
  - Highest income families: $96
  - Lowest income families: $1

- From a tax perspective, it would have been very prone to abuse. It would have given tax-payers a preference for virtually any expenditure that might conceivably be related to education -- home computers, recreational expenditures, etc.

- Most importantly, the bill would have provided private school vouchers by another name. It would have diverted public resources to support of private education at a time when we need to do all we can to improve our public schools. I am committed to ensuring that private school students have the opportunity to participate equitably in the Department's elementary and secondary programs, but the President and I will not support any voucher or voucher-type legislation.