

EDUCATION SAVINGS AND SCHOOL EXCELLENCE ACT OF  
2000

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MARCH 24, 2000.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. ARCHER, from the Committee on Ways and Means,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 7]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 7) 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

CONTENTS

	Page
I. Summary and Background .....	9
A. Purpose and Summary .....	9
B. Background and Need for Legislation .....	10
C. Legislative History .....	10
II. Explanation of the Bill .....	11
A. Expand Education Savings Accounts .....	11
B. Allow Tax-Free Distributions From State and Private Education Programs .....	16

C.	Eliminate Tax on Awards under the National Health Service Corps Scholarship Program, the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program, the National Institutes of Health Undergraduate Scholarship Program, and Certain State-Sponsored Scholarship Programs .....	19
D.	Liberalize Tax-Exempt Bond Arbitrage Rebate Exceptions for Public School Construction Bonds .....	20
E.	Student Loan Interest Deduction .....	22
F.	Two-Percent Floor Not to Apply to Professional Development Expenses of Teachers .....	24
G.	Extension of Deduction for Computer Donations to Schools .....	24
III.	Vote of the Committee .....	26
IV.	Budget Effects of the Bill .....	26
A.	Committee Estimates of Budgetary Effects .....	26
B.	Statement Regarding New Budget Authority and Tax Expenditures .....	29
C.	Cost Estimate Prepared by the Congressional Budget Office .....	29
V.	Other Matters To Be Discussed Under the Rules of the House .....	30
A.	Committee Oversight Findings and Recommendations .....	30
B.	Summary of Findings and Recommendations of the Committee on Government Reform and Oversight .....	31
C.	Constitutional Authority Statement .....	31
D.	Information Relating to Unfunded Mandates .....	31
E.	Applicability of House Rule XXI5(b) .....	31
F.	Tax Complexity Analysis .....	31
VI.	Changes in Existing Law Made by the Bill, as Reported .....	32
VII.	Dissenting Views .....	52

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE; ETC.**

(a) **SHORT TITLE.**—This Act may be cited as the “Education Savings and School Excellence Act of 2000”.

(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.

**SEC. 2. 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 “\$2,000”.

(2) **CONFORMING AMENDMENT.**—Section 4973(e)(1)(A) is amended by striking “\$500” and inserting “\$2,000”.

**(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 (4)).

**“(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) is amended by adding at the end the following new paragraph:

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

**“(A) IN GENERAL.**—The term ‘qualified elementary and secondary education expenses’ means—

“(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) 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 subparagraphs (A)(ii) and (E) 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:

**“(5) 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 first day of the sixth month of the taxable year following the taxable year, and”, and

(B) by striking “DUE DATE OF RETURN” in the heading and inserting “CERTAIN DATE”.

(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.—For purposes of subparagraph (A)—

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

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

“(II) 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.

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

“(I) the aggregate distributions during such year to which subparagraph (A) and section 529(c)(3)(B) apply, exceed

“(II) the total amount of qualified education expenses (after the application of clause (i)) for such 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(d)(2)(D) is amended—

(i) by striking “or credit”, and

(ii) by striking “CREDIT OR” in the heading.

(D) 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) RENAMING EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS AS EDUCATION SAVINGS ACCOUNTS.—

(1) IN GENERAL.—

(A) Section 530 (as amended by the preceding provisions of this section) is amended by striking “education individual retirement account” each place it appears and inserting “education savings account”.

(B) The heading for paragraph (1) of section 530(b) is amended by striking “EDUCATION INDIVIDUAL RETIREMENT ACCOUNT” and inserting “EDUCATION SAVINGS ACCOUNT”.

(C) The heading for section 530 is amended to read as follows:

“SEC. 530. EDUCATION SAVINGS ACCOUNTS.”.

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

“Sec. 530. Education savings accounts.”.

(2) CONFORMING AMENDMENTS.—

(A) The following provisions are each amended by striking “education individual retirement” each place it appears and inserting “education savings”:

(i) Section 25A(e)(2).

(ii) Section 26(b)(2)(E).

(iii) Section 72(e)(9).

(iv) Section 135(c)(2)(C).

- (v) Subsections (a) and (e) of section 4973.
- (vi) Subsections (c) and (e) of section 4975.
- (vii) Section 6693(a)(2)(D).

(B) The headings for each of the following provisions are amended by striking “EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS” each place it appears and inserting “EDUCATION SAVINGS ACCOUNTS”.

- (i) Section 72(e)(9).
- (ii) Section 135(c)(2)(C).
- (iii) Section 4973(e).
- (iv) Section 4975(c)(5).

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2000.

(2) SUBSECTION (g).—The amendments made by subsection (g) shall take effect on the date of the enactment of this Act.

**SEC. 3. MODIFICATIONS TO QUALIFIED TUITION PROGRAMS.**

(a) SHORT TITLE.—This section may be cited as the “Collegiate Learning and Student Savings (CLASS) Act”.

(b) 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 one 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”.

(c) 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.—For purposes of this paragraph—

“(i) IN-KIND DISTRIBUTIONS.—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.

“(ii) CASH DISTRIBUTIONS.—In the case of distributions not described in clause (i), if—

“(I) such distributions do not exceed the qualified higher education expenses (reduced by expenses described in clause (i)), no amount shall be includible in gross income, and

“(II) in any other case, the amount otherwise includible in gross income shall be reduced by an amount which bears the same ratio to such amount as such expenses bear to such distributions.

“(iii) TREATMENT AS 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.—The total amount of qualified higher education expenses with respect to an individual for the taxable year shall be reduced—

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

“(II) 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.

“(v) COORDINATION WITH EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.—If, with respect to an individual for any taxable year—

“(I) the aggregate distributions to which clauses (i) and (ii) and section 530(d)(2)(A) apply, exceed

“(II) the total amount of qualified higher education expenses otherwise taken into account under clauses (i) and (ii) (after the application of clause (iv)) for such year,

the taxpayer shall allocate such expenses among such distributions for purposes of determining the amount of the exclusion under clauses (i) and (ii) and section 530(d)(2)(A).”.

(2) CONFORMING AMENDMENTS.—

(A) Section 135(d)(2)(B) is amended by striking “the exclusion under section 530(d)(2)” and inserting “the exclusions under sections 529(c)(3)(B)(i) and 530(d)(2)”.

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

(d) ROLLOVER TO DIFFERENT PROGRAM FOR BENEFIT OF SAME DESIGNATED BENEFICIARY.—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 not apply to any amount transferred with respect to a designated beneficiary if, at any time during the 1-year period ending on the day of such transfer, any other amount was transferred with respect to such beneficiary which was not includible in gross income by reason of clause (i)(I).”, and

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

(e) 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.”.

(f) DEFINITION OF QUALIFIED HIGHER EDUCATION EXPENSES.—

(1) IN GENERAL.—Subparagraph (A) of section 529(e)(3) (relating to definition of qualified higher education expenses) is amended to read as follows:

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

“(i) tuition and fees required for the enrollment or attendance of a designated beneficiary at an eligible educational institution for courses of instruction of such beneficiary at such institution, and

“(ii) expenses for books, supplies, and equipment which are incurred in connection with such enrollment or attendance, but not to exceed the allowance for books and supplies included in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 108711), as in effect on the date of the enactment of the Education Savings and School Excellence Act of 2000 as determined by the eligible educational institution.”.

(2) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Paragraph (3) of section 529(e) (relating to qualified higher education expenses) is amended by adding at the end the following new subparagraph:

“(C) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—The term ‘qualified higher education expenses’ shall not include expenses with respect to any course or other education involving sports, games, or hobbies unless such course or other education is part of the beneficiary’s degree program or is taken to acquire or improve job skills of the beneficiary.”.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The amendments made by subsection (f) shall apply to amounts paid for courses beginning after December 31, 2000.

**SEC. 4. EXCLUSION OF CERTAIN AMOUNTS RECEIVED UNDER THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM, THE F. EDWARD HEBERT ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM, AND CERTAIN OTHER PROGRAMS.**

(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 Health Service Corps Scholarship program under section 338A(g)(1)(A) of the Public Health Service Act,

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

“(C) the National Institutes of Health Undergraduate Scholarship program under section 487D of the Public Health Service Act, or

“(D) any State program determined by the Secretary to have substantially similar objectives as such programs.”.

(b) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by subsection (a) shall apply to amounts received in taxable years beginning after December 31, 1993.

(2) **STATE PROGRAMS.**—Section 117(c)(2)(D) of the Internal Revenue Code of 1986 (as added by the amendments made by subsection (a)) shall apply to amounts received in taxable years beginning after December 31, 1999.

**SEC. 5. 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, 2000.

**SEC. 6. MODIFICATION OF ARBITRAGE REBATE RULES APPLICABLE TO PUBLIC SCHOOL CONSTRUCTION BONDS.**

(a) **IN GENERAL.**—Subparagraph (C) of section 148(f)(4) is amended by adding at the end the following new clause:

“(xviii) **4-YEAR SPENDING REQUIREMENT FOR PUBLIC SCHOOL CONSTRUCTION ISSUE.**—

“(I) **IN GENERAL.**—In the case of a public school construction issue, the spending requirements of clause (ii) shall be treated as met if at least 10 percent of the available construction proceeds of the construction issue are spent for the governmental purposes of the issue within the 1-year period beginning on the date the bonds are issued, 30 percent of such proceeds are spent for such purposes within the 2-year period beginning on such date, 60 percent of such proceeds are spent for such purposes within the 3-year period beginning on such date, and 100 percent of such proceeds are spent for such purposes within the 4-year period beginning on such date.

“(II) **PUBLIC SCHOOL CONSTRUCTION ISSUE.**—For purposes of this clause, the term ‘public school construction issue’ means any construction issue if no bond which is part of such issue is a private activity bond and all of the available construction proceeds of such issue are to be used for the construction (as defined in clause (iv)) of public school facilities to provide education or training below the postsecondary level or for the acquisition of land that is functionally related and subordinate to such facilities.

“(III) **OTHER RULES TO APPLY.**—Rules similar to the rules of the preceding provisions of this subparagraph which apply to clause (ii) also apply to this clause.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to obligations issued after December 31, 2000.

**SEC. 7. ELIMINATION OF 60-MONTH LIMIT AND INCREASE IN INCOME LIMITATION ON STUDENT LOAN INTEREST DEDUCTION.**

(a) **ELIMINATION OF 60-MONTH LIMIT.**—

(1) **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.

(2) **CONFORMING AMENDMENT.**—Section 6050S(e) is amended by striking “section 221(e)(1)” and inserting “section 221(d)(1)”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply with respect to any loan interest paid after December 31, 2000, in taxable years ending after such date.

**(b) INCREASE IN INCOME LIMITATION.**—

(1) **IN GENERAL.**—Section 221(b)(2)(B) (relating to amount of reduction) is amended by striking clauses (i) and (ii) and inserting the following:

“(i) the excess of—

“(I) the taxpayer’s modified adjusted gross income for such taxable year, over

“(II) \$45,000 (\$90,000 in the case of a joint return), bears to

“(ii) \$15,000.”

(2) **CONFORMING AMENDMENT.**—Section 221(g)(1) is amended by striking “\$40,000 and \$60,000 amounts” and inserting “\$45,000 and \$90,000 amounts”.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to taxable years ending after December 31, 2000.

**SEC. 8. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS NOT TO APPLY TO QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.**

(a) **IN GENERAL.**—Section 67(b) (defining miscellaneous itemized deductions) is amended by striking “and” at the end of paragraph (11), by striking the period at the end of paragraph (12) and inserting “, and”, and by adding at the end the following new paragraph:

“(13) any deduction allowable for the qualified professional development expenses of an eligible teacher.”

(b) **DEFINITIONS.**—Section 67 (relating to 2-percent floor on miscellaneous itemized deductions) is amended by adding at the end the following new subsection:

“(g) **QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES OF ELIGIBLE TEACHERS.**—For purposes of subsection (b)(13)—

“(1) **QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.**—

“(A) **IN GENERAL.**—The term ‘qualified professional development expenses’ means expenses in an amount not to exceed \$1,000 for any taxable year—

“(i) for tuition, fees, books, supplies, equipment, and transportation required for the enrollment or attendance of an individual in a qualified course of instruction, and

“(ii) with respect to which a deduction is allowable under section 162 (determined without regard to this section).

“(B) **QUALIFIED COURSE OF INSTRUCTION.**—The term ‘qualified course of instruction’ means a course of instruction which—

“(i) is—

“(I) at an institution of higher education (as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this subsection), or

“(II) a professional conference, and

“(ii) is part of a program of professional development which is approved and certified by the appropriate local educational agency as furthering the individual’s teaching skills.

“(C) **LOCAL EDUCATIONAL AGENCY.**—The term ‘local educational agency’ has the meaning given such term by section 14101 of the Elementary and Secondary Education Act of 1965, as so in effect.

“(2) **ELIGIBLE TEACHER.**—

“(A) **IN GENERAL.**—The term ‘eligible teacher’ means an individual who is a kindergarten through grade 12 classroom teacher, instructor, counselor, aide, or principal in an elementary or secondary school.

“(B) **ELEMENTARY OR SECONDARY SCHOOL.**—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 so in effect.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.



**SEC. 9. EXTENSION OF SPECIAL RULE FOR CHARITABLE CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT FOR ELEMENTARY AND SECONDARY SCHOOL PURPOSES.**

Subparagraph (F) of section 170(e)(6) (relating to termination) is amended by striking “2000” and inserting “2001”.

**I. SUMMARY AND BACKGROUND**

**A. PURPOSE AND SUMMARY**

H.R. 7, as amended, expands and modifies the education IRAs enacted in the Taxpayer Relief Act of 1997 (“1997 Act”) to include elementary and secondary education expenses and provide other tax incentives for education.

*Expand Education Savings Accounts.*—The bill increases the annual contribution limit to education IRAs (renamed “Education Savings Accounts”) from \$500 to \$2,000 per beneficiary, and expands the definition of qualified education expenses to include qualified elementary and secondary expenses (including certain homeschooling expenses). Further, the bill allows contributions to be made on behalf of special needs beneficiaries after they reach age 18. The bill also allows: (1) contributions for a taxable year to be made until April 15 of the following year; (2) coordination of distributions from Education Savings Accounts with the HOPE and Lifetime Learning credits; and (3) contributions by corporations and other entities. The provisions are effective for taxable years beginning after December 31, 2000.

*Allow tax-free distributions from state and private education programs.*—The bill expands the definition of “qualified tuition program” to include certain prepaid tuition programs established and maintained by one or more eligible educational institutions (which may be private institutions). In the case of a qualified tuition program maintained by one or more private educational institutions, persons will be able to purchase tuition credits or certificates on behalf of a designated beneficiary, but will not be able to make contributions to a savings account plan. Under the bill, an exclusion from gross income is provided for distributions made from qualified tuition programs. The bill allows a taxpayer to claim a HOPE credit or Lifetime Learning credit for a taxable year and to exclude from gross income amounts distributed from a qualified tuition program on behalf of the same student as long as the distributions are not used for the same expenses for which a credit was claimed. The provisions are effective for taxable years beginning after December 31, 2000.

*Eliminate tax on awards Under National Health Service Corps (“NHSC”) Scholarship Program, F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program, National Institutes of Health (“NIH”) Undergraduate Scholarship Program and Certain State-Sponsored Scholarship Programs.*—The bill provides that amounts received by an individual under certain programs are excludable from income as qualified scholarships under section 117, without regard to any service obligation by the recipient. The provision is effective for education awards received under the NHSC Scholarship Program, the F. Edward Hebert Armed Forces Scholarship Program, and the NIH Undergraduate Scholarship Program after December 31, 1993. The provision is ef-

fective for awards received under State-sponsored programs designated by the Secretary after December 31, 1999.

*Liberalize tax-exempt financing rules for public school construction.*—The bill increases from \$10 million to \$15 million the maximum annual issuance of governmental bonds by small State or local governments eligible for a special exception from the tax-exempt bond arbitrage rebate rules. The increase applies only with respect to bonds issued for public school construction. The provision is effective obligations issued in calendar years beginning after December 31, 2000.

The bill extends from 24 months to 48 months the period during which proceeds of tax-exempt bonds to finance public school construction may be spent without losing eligibility for an exception from the tax-exempt bond arbitrage rebate rules. The provision is effective for bonds issued after December 31, 2000.

*Student loan interest deduction.*—The bill increases the beginning point of the income phaseout for the student loan interest deduction for individual taxpayers from \$40,000 to \$45,000. For taxpayers filing joint returns, the bill increases the beginning point of the income phaseout to twice the beginning point of the income phaseouts applicable to single taxpayers. The bill also repeals both the limit on the number of months during which interest paid on a qualified education loan is deductible and the restriction that nonmandatory payments of interest are not deductible. The provisions generally are effective for taxable years beginning after December 31, 2000.

*Two-percent floor not to apply to professional development expenses of teachers.*—The bill provides an exception to the two-percent floor on itemized deductions for the professional development expenses (not to exceed \$1,000) of elementary and secondary school teachers. The provision is effective for taxable years beginning after December 31, 2000.

*Extension of deduction for computer donations to schools.*—The bill extends for one year, through December 31, 2001, the enhanced deduction for computer donations to schools under section 170(e)(6).

## B. BACKGROUND AND NEED FOR LEGISLATION

The bill, as amended, expands the opportunity for use of education savings accounts to include elementary and secondary school expenses and increases the amount that may be contributed to such accounts. The bill, as amended, also expands the tax incentives for education by modifying the rules relating to qualified tuition programs, the coordination of the HOPE and Lifetime Learning credit with education savings accounts and qualified tuition programs, the tax treatment of certain scholarship programs, school construction bonds, the student loan interest deduction, deductibility of teachers' professional development expenses, and the enhanced charitable deduction for computer equipment.

## C. LEGISLATIVE HISTORY

H.R. 7 was introduced by Mr. Hulshof and Mr. Lipinski on March 1, 1999, and was amended by the Committee in a markup on March 22, 2000. An amendment in the nature of a substitute

(offered by Chairman Archer) was adopted by a voice vote, with a quorum present. The bill, as amended, was ordered favorably reported by a roll call of 21 yeas and 16 nays on March 22, 2000, with a quorum present.

## II. EXPLANATION OF THE BILL

### A. EXPAND EDUCATION SAVINGS ACCOUNTS (SEC. 2 OF THE BILL AND SEC. 530 OF THE CODE)

#### PRESENT LAW

##### *In general*

Section 530 provides tax-exempt status to education individual retirement accounts (“education IRAs”), meaning certain trusts (or custodial accounts) which are created or organized in the United States exclusively for the purpose of paying the qualified higher education expenses of a named beneficiary.<sup>1</sup> Contributions to education IRAs may be made only in cash. Annual contributions to education IRAs may not exceed \$500 per designated beneficiary (except in cases involving certain tax-free rollovers, as described below), and may not be made after the designated beneficiary reaches age 18.<sup>2</sup> Moreover, an excise tax is imposed if a contribution is made by any person to an education IRA established on behalf of a beneficiary during any taxable year in which any contributions are made by anyone to a qualified State tuition program (defined under sec. 529) on behalf of the same beneficiary.

##### *Phaseout of contribution limit*

The \$500 annual contribution limit for education IRAs is phased out ratably for contributors with modified adjusted gross income (“AGI”) between \$95,000 and \$110,000 (between \$150,000 and \$160,000 for joint returns). Individuals with modified AGI above the phase-out range are not allowed to make contributions to an education IRA established on behalf of any individual.

##### *Treatment of distributions*

Amounts distributed from an education IRA are excludable from gross income to the extent that the amounts distributed do not exceed qualified higher education expenses of the designated beneficiary incurred during the year the distribution is made (provided that a HOPE credit or Lifetime Learning credit is not claimed with respect to the beneficiary for the same taxable year). Distributions from an education IRA are generally deemed to consist of distributions of principal (which, under all circumstances, are excludable from gross income) and earnings (which may be excludable from gross income) by applying the ratio that the aggregate amount of contributions to the account for the beneficiary bears to the total balance of the account. If the qualified higher education expenses of the student for the year are at least equal to the total amount of the distribution (i.e., principal and earnings combined) from an

<sup>1</sup> Education IRAs generally are not subject to Federal income tax, but are subject to the unrelated business income tax (“UBIT”) imposed by section 511.

<sup>2</sup> An excise tax may be imposed under present law to the extent that excess contributions above the \$500 annual limit are made to an education IRA.

education IRA, then the earnings in their entirety are excludable from gross income. If, on the other hand, the qualified higher education expenses of the student for the year are *less than* the total amount of the distribution (i.e., principal and earnings combined) from an education IRA, then the qualified higher education expenses are deemed to be paid from a pro-rata share of both the principal and earnings components of the distribution. Thus, in such a case, only a portion of the earnings are excludable (i.e., a portion of the earnings based on the ratio that the qualified higher education expenses bear to the total amount of the distribution) and the remaining portion of the earnings is includible in the distributee's gross income.

To the extent that a distribution exceeds qualified higher education expenses of the designated beneficiary, an additional 10-percent tax is imposed on the earnings portion of such excess distribution, unless such distribution is made on account of the death or disability of, or scholarship received by, the designated beneficiary. The additional 10-percent tax also does not apply to the distribution of any contribution to an education IRA made during the taxable year if such distribution is made on or before the date that a return is required to be filed (including extensions of time) by the beneficiary for the taxable year during which the contribution was made (or, if the beneficiary is not required to file such a return, April 15th of the year following the taxable year during which the contribution was made), provided that such distribution is accompanied by the amount of income allocable to the contribution.

Present law allows tax-free transfers or rollovers of account balances from one education IRA benefitting one beneficiary to another education IRA benefitting another beneficiary (as well as redesignations of the named beneficiary), provided that the new beneficiary is a member of the family of the old beneficiary. For this purpose, a "member of the family" means persons described in paragraphs (1) through (8) of section 152(a)—e.g., sons, daughters, brothers, sisters, nephews and nieces, certain in-laws—and any spouse of such persons or of the original beneficiary.

Any balance remaining in an education IRA is deemed to be distributed within 30 days after the date that the named beneficiary reaches age 30 (or, if earlier, within 30 days of the date that the beneficiary dies).

#### *Qualified higher education expenses*

The term "qualified higher education expenses" includes tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the designated beneficiary at an eligible education institution, regardless of whether the beneficiary is enrolled at an eligible educational institution on a full-time, half-time, or less than half-time basis. Moreover, the term "qualified higher education expenses" includes certain room and board expenses for any period during which the beneficiary is at least a half-time student. Qualified higher education expenses include expenses with respect to undergraduate or graduate-level courses. In addition, qualified higher education expenses include amounts paid or incurred to purchase tuition credits (or to make contributions to an account) under a

qualified State tuition program, as defined in section 529, for the benefit of the beneficiary of the education IRA.

Qualified higher education expenses generally include only out-of-pocket expenses. Such qualified higher education expenses do not include expenses covered by educational assistance for the benefit of the beneficiary that is excludable from gross income. Thus, total qualified higher education expenses are reduced by scholarship or fellowship grants excludable from gross income under present-law section 117, as well as any other tax-free educational benefits, such as employer-provided educational assistance that is excludable from the employee's gross income under section 127.<sup>3</sup>

Present law also provides that, if any qualified higher education expenses are taken into account in determining the amount of the exclusion for a distribution from an education IRA, then no deduction (e.g., for trade or business expenses deductible under sec. 162), or exclusion (e.g., for expenses paid with interest on education savings bonds excludable under sec. 135), or credit is allowed with respect to such expenses.

*Eligible educational institution*

Eligible educational institutions are defined by reference to section 481 of the Higher Education Act of 1965. Such institutions generally are accredited post-secondary educational institutions offering credit toward a bachelor's degree, an associate's degree, a graduate-level or professional degree, or another recognized post-secondary credential. Certain proprietary institutions and post-secondary vocational institutions also are eligible institutions. The institution must be eligible to participate in Department of Education student aid programs.

REASONS FOR CHANGE

The Committee believes that the present-law rules governing education IRAs should be expanded to provide a greater incentive for families (and other persons) to save for educational purposes, including for expenses related to elementary and secondary school education. The Committee also believes that more flexible rules are needed for education IRAs (e.g., for education IRAs established for the benefit of special needs students). The Committee further believes that the benefits of education IRAs should be coordinated with other education tax provisions so as to maximize the potential benefit of all the education tax incentives.

EXPLANATION OF PROVISION

*Annual contribution limit*

The bill increases the annual education IRA contribution limit to \$2,000. Thus, aggregate contributions that may be made by all contributors to one (or more) education IRAs established on behalf of any particular beneficiary is limited to \$2,000 for each year.

<sup>3</sup>No reduction of qualified higher education expenses is required, however, for a gift, bequest, devise, or inheritance.

*Qualified expenses*

The bill expands the definition of qualified education expenses that may be paid with tax-free distributions from an education IRA. Specifically, the definition of qualified education expenses is expanded to include “qualified elementary and secondary education expenses,” meaning (1) tuition, fees, academic tutoring, special needs services, books, supplies, and equipment (including computers and related software and services) incurred in connection with the enrollment or attendance of the designated beneficiary as an elementary or secondary student at a public, private, or religious school providing elementary or secondary education (kindergarten through grade 12), and (2) room and board, uniforms, transportation, and supplementary items and services (including extended-day programs) required or provided by such a school in connection with such enrollment or attendance of the designated beneficiary.<sup>4</sup> “Qualified elementary and secondary education expenses” also includes certain homeschooling education expenses if the requirements of any applicable State or local law are met with respect to such homeschooling.

Under the bill, the definition of “qualified higher education expenses” is modified to mean: (1) tuition and fees required for the enrollment or attendance of a designated beneficiary at an eligible education institution; and (2) expenses for books, supplies, and equipment incurred in connection with such enrollment or attendance (but not in excess of the allowance for books and supplies determined by the educational institution for purposes of Federal financial assistance programs).<sup>5</sup> The bill provides that “qualified higher education expenses” does not include expenses for education involving sports, games, or hobbies unless this education is part of the student’s degree program or is taken to acquire or improve job skills of the individual. The bill does not change the definition of “qualified higher education expenses” with respect to expenses for room and board.

*Special needs beneficiaries*

The bill also provides that, although contributions to an education IRA generally may not be made after the designated beneficiary reaches age 18, contributions may continue to be made to an education IRA in the case of a special needs beneficiary (as defined by Treasury Department regulations). In addition, under the bill, in the case of a special needs beneficiary, a deemed distribution of any balance in an education IRA does not occur when the beneficiary reaches age 30.

<sup>4</sup> Contributions made to education IRAs prior to the effective date of the provision (and earnings thereon) may be used for distributions for qualified elementary and secondary education expenses made after January 1, 2001. Thus, it is not necessary for trustees of education IRAs to keep separate accounts with respect to contributions made prior to the effective date of the provision and earnings thereon.

<sup>5</sup> “Qualified higher education expenses” for purposes of education IRAs are defined by reference to the definition of such expenses for purposes of qualified State tuition programs (sec. 530(b)(2)(A)). Because the bill modifies the definition of “qualified higher education expenses” for purposes of qualified State tuition programs (sec. 529(e)(3)), the definition of “qualified higher education expenses” for education IRAs is also modified.

*Contributions by persons other than individuals*

The bill clarifies that corporations and other entities (including tax-exempt organizations) are permitted to make contributions to education IRAs regardless of the income of the corporation or entity during the year of the contribution.

*Contributions permitted until April 15*

Under the bill, individual contributors to education IRAs are deemed to have made a contribution 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), generally April 15.<sup>6</sup> The bill also provides that the additional 10-percent tax on distributions not used for qualified higher education expenses does not apply to the distribution of any contribution to an education IRA made during the taxable year if such distribution is made on or before the first day of the sixth month (generally June 1) of the taxable year following the taxable year during which the contribution was or was deemed made, provided the distribution is accompanied by the amount of net income attributable to the contribution.

*Coordination with HOPE and Lifetime Learning credits*

The bill allows a taxpayer to claim a HOPE credit or Lifetime Learning credit for a taxable year and to exclude from gross income amounts distributed (both the principal and the earnings portions) from an education IRA on behalf of the same student as long as the distribution is not used for the same educational expenses for which a credit is claimed.

*Coordination with qualified tuition programs*

The bill repeals the excise tax on contributions made by any person to an education IRA on behalf of a beneficiary during any taxable year in which any contributions are made by anyone to a qualified State tuition program on behalf of the same beneficiary (sec. 4973(e)(1)(B)).

*Change name to "Education Savings Accounts"*

The bill changes the name of education IRAs to "Education Savings Accounts."

## EFFECTIVE DATE

The provisions relating to education IRAs are effective with respect to taxable years beginning after December 31, 2000, except that the provision changing the name of education IRAs to Education Savings Accounts is effective on the date of enactment.

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<sup>6</sup>It is expected that trustees of education IRAs will require documentation from a contributor (whether an individual, corporation, or other entity) indicating the taxable year to which the contribution should be allocated.

B. ALLOW TAX-FREE DISTRIBUTIONS FROM STATE AND PRIVATE EDUCATION PROGRAMS (SEC. 3 OF THE BILL AND SEC. 529 OF THE CODE)

PRESENT LAW

Section 529 provides tax-exempt status to “qualified State tuition programs,” meaning certain programs established and maintained by a State (or agency or instrumentality thereof) under which persons may (1) purchase tuition credits or certificates on behalf of a designated beneficiary that entitle the beneficiary to a waiver or payment of qualified higher education expenses of the beneficiary, or (2) make contributions to an account that is established for the purpose of meeting qualified higher education expenses of the designated beneficiary of the account (a “savings account plan”). The term “qualified higher education expenses” generally has the same meaning as does the term for purposes of education IRAs (as described above) and, thus, includes expenses for tuition, fees, books, supplies, and equipment required for the enrollment or attendance at an eligible educational institution,<sup>7</sup> as well as certain room and board expenses for any period during which the student is at least a half-time student.

No amount is included in the gross income of a contributor to, or beneficiary of, a qualified State tuition program with respect to any distribution from, or earnings under, such program, except that (1) amounts distributed or educational benefits provided to a beneficiary (e.g., when the beneficiary attends college) are included in the beneficiary’s gross income (unless excludable under another Code section) to the extent such amounts or the value of the educational benefits exceed contributions made on behalf of the beneficiary, and (2) amounts distributed to a contributor (e.g., when a parent receives a refund) are included in the contributor’s gross income to the extent such amounts exceed contributions made on behalf of the beneficiary.<sup>8</sup>

A qualified State tuition program is required to provide that purchases or contributions only be made in cash.<sup>9</sup> Contributors and beneficiaries are not allowed to directly or indirectly direct the investment of contributions to the program (or earnings thereon). The program is required to maintain a separate accounting for each designated beneficiary. A specified individual must be designated as the beneficiary at the commencement of participation in a qualified State tuition program (i.e., when contributions are first made to purchase an interest in such a program), unless interests in such a program are purchased by a State or local government or a tax-exempt charity described in section 501(c)(3) as part of a scholarship program operated by such government or charity under which beneficiaries to be named in the future will receive such interests as scholarships. A transfer of credits (or other amounts) from one account benefitting one designated beneficiary to another

<sup>7</sup>“Eligible educational institutions” are defined the same for purposes of education IRAs and qualified State tuition programs.

<sup>8</sup>Distributions from qualified State tuition programs are treated as representing a pro-rata share of the principal (i.e., contributions) and accumulated earnings in the account.

<sup>9</sup>Sections 529(c)(2), (c)(4), and (c)(5), and section 530(d)(3) provide special estate and gift tax rules for contributions made to, and distributions made from, qualified State tuition programs and education IRAs.



account benefitting a different beneficiary is considered a distribution (as is a change in the designated beneficiary of an interest in a qualified State tuition program), unless the beneficiaries are members of the same family. For this purpose, the term “member of the family” means persons described in paragraphs (1) through (8) of section 152(a)—e.g., sons, daughters, brothers, sisters, nephews and nieces, certain in-laws—and any spouse of such persons or of the original beneficiary. Earnings on an account may be refunded to a contributor or beneficiary, but the State or instrumentality must impose a more than de minimis monetary penalty unless the refund is (1) used for qualified higher education expenses of the beneficiary, (2) made on account of the death or disability of the beneficiary, or (3) made on account of a scholarship received by the designated beneficiary to the extent the amount refunded does not exceed the amount of the scholarship used for higher education expenses.

To the extent that a distribution from a qualified State tuition program is used to pay for qualified tuition and related expenses (as defined in sec. 25A(f)(1)), the distributee (or another taxpayer claiming the distributee as a dependent) may claim the HOPE credit or Lifetime Learning credit under section 25A with respect to such tuition and related expenses (assuming that the other requirements for claiming the HOPE credit or Lifetime Learning credit are satisfied and the modified AGI phaseout for those credits does not apply).

#### REASONS FOR CHANGE

The Committee believes that distributions from qualified tuition programs should not be subject to Federal income tax to the extent that such distributions are used to pay for qualified higher education expenses of undergraduate or graduate students who are attending institutions of higher education or certain vocational schools. In addition, the Committee believes that the present-law rules governing qualified tuition programs should be expanded to permit private educational institutions to maintain certain prepaid tuition programs.

#### EXPLANATION OF PROVISION

##### *Qualified tuition program*

The bill expands the definition of “qualified tuition program” to include certain prepaid tuition programs established and maintained by one or more eligible educational institutions (which may be private institutions) that satisfy the requirements under section 529 (other than the present-law State sponsorship rule). In the case of a qualified tuition program maintained by one or more private educational institutions, persons are able to purchase tuition credits or certificates on behalf of a designated beneficiary (as described in section 529(b)(1)(A)(i)), but are not able to make contributions to a savings account plan (described in section 529(b)(1)(A)(ii)).

*Exclusion from gross income*

Under the bill, distributions from qualified State tuition programs and from qualified tuition programs established and maintained by an entity other than a State or agency or instrumentality thereof are excludable from gross income to the extent that the distribution is used to pay for qualified higher education expenses.

*Coordination with HOPE and Lifetime Learning credits*

The bill allows a taxpayer to claim a HOPE credit or Lifetime Learning credit for a taxable year and to exclude from gross income amounts distributed (both the principal and the earnings portions) from a qualified tuition program on behalf of the same student as long as the distribution is not used for the same expenses for which a credit is claimed.

*Definition of qualified higher education expenses*

Under the bill, the definition of “qualified higher education expenses” is modified to mean: (1) tuition and fees required for the enrollment or attendance of a designated beneficiary at an eligible educational institution; and (2) expenses for books, supplies, and equipment incurred in connection with such enrollment or attendance (but not in excess of the allowance for books and supplies determined by the educational institution for purposes of Federal financial assistance programs).<sup>10</sup> The bill provides that “qualified higher education expenses” do not include expenses for education involving sports, games, or hobbies unless this education is part of the student’s degree program or is taken to acquire or improve job skills of the individual. The bill does not change the definition of “qualified higher education expenses” with respect to expenses for room and board.

*Rollovers for benefit of same beneficiary*

The bill provides that a transfer of credits (or other amounts) from one qualified tuition program for the benefit of a designated beneficiary to another qualified tuition program for the benefit of the same beneficiary is not considered a distribution for a maximum of one such transfer in each 1-year period.

*Member of family*

The bill provides that, for purposes of tax-free rollovers and changes of designated beneficiaries, a “member of the family” includes first cousins of such beneficiary.

*Short title*

The bill provides that the section of the bill relating to qualified tuition plans may be cited as the “Collegiate Learning and Student Savings (CLASS) Act.”

<sup>10</sup>It is intended that, with respect to a distribution made from a qualified tuition program that does not exceed the allowance for books and supplies determined for purposes of Federal financial assistance by the eligible educational institution where the beneficiary is enrolled, Treasury regulations will provide that beneficiaries need not substantiate actual purchases of books, supplies, and equipment.

## EFFECTIVE DATE

The provision is generally effective for taxable years beginning after December 31, 2000. The provision modifying the definition of qualified higher education expenses is effective for amounts paid for education furnished after December 31, 2000.

C. ELIMINATE TAX ON AWARDS UNDER THE NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM, THE F. EDWARD HEBERT ARMED FORCES HEALTH PROFESSIONS SCHOLARSHIP AND FINANCIAL ASSISTANCE PROGRAM, THE NATIONAL INSTITUTES OF HEALTH UNDERGRADUATE SCHOLARSHIP PROGRAM, AND CERTAIN STATE-SPONSORED SCHOLARSHIP PROGRAMS (SEC. 4 OF THE BILL AND SEC. 117 OF THE CODE)

## PRESENT LAW

Section 117 excludes from gross income qualified scholarships received by an individual who is a candidate for a degree and used for tuition and fees required for the enrollment or attendance (or for fees, books, supplies, and equipment required for courses of instruction) at a primary, secondary, or post-secondary educational institution. The tax-free treatment provided by section 117 does not extend to scholarship amounts covering regular living expenses, such as room and board. In addition to the exclusion for qualified scholarships, section 117 provides an exclusion from gross income for qualified tuition reductions for certain education provided to employees (and their spouses and dependents) of certain educational organizations.

Section 117(c) specifically provides that the exclusion for qualified scholarships and qualified tuition reductions does not apply to any amount received by a student that represents payment for teaching, research, or other services by the student required as a condition for receiving the scholarship or tuition reduction.

The National Health Service Corps Scholarship Program (the "NHSC Scholarship Program") and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program (the "Armed Forces Scholarship Program") provide education awards to participants on condition that the participants provide certain services. In the case of the NHSC Scholarship Program, the recipient of the scholarship is obligated to provide medical services in a geographic area (or to an underserved population group or designated facility) identified by the Public Health Service as having a shortage of health-care professionals. In the case of the Armed Forces Scholarship Program, the recipient of the scholarship is obligated to serve a certain number of years in the military at an armed forces medical facility. The National Institutes of Health Undergraduate Scholarship Program (the "NIH" Scholarship Program) awards scholarships to students from disadvantaged backgrounds interested in pursuing a career in biomedical research. In exchange, the recipients must work for the National Institutes of Health after graduation. Several States provide a limited number of scholarships to students in health professions who are obligated to work in underserved areas for a period of time after graduation. Because the recipients of scholarships in these programs are re-

quired to perform services in exchange for the education awards, the awards used to pay higher education expenses are taxable income to the recipient.

#### REASONS FOR CHANGE

To improve health care services in underserved areas, the Committee believes that it is appropriate to provide tax-free treatment for scholarships received by students under the NHSC Scholarship Program, Armed Forces Scholarship Program, NIH Scholarship Program, and State-sponsored programs with similar objectives.

#### EXPLANATION OF PROVISION

The bill provides that amounts received by an individual under the NHSC Scholarship Program and the Armed Forces Scholarship Program, the NIH Scholarship Program and any State-sponsored health scholarship program determined by the Secretary of the Treasury to have substantially similar objectives to these programs are eligible for tax-free treatment as qualified scholarships under section 117, without regard to any service obligation by the recipient. As with other qualified scholarships under section 117, the tax-free treatment does not apply to amounts received for regular living expenses, including room and board.

#### EFFECTIVE DATE

The provision is generally effective for amounts received in taxable years beginning after December 31, 1993. The provision for education awards received under a State-sponsored health scholarship program is effective for amounts received in taxable years beginning after December 31, 1999.

#### D. LIBERALIZE TAX-EXEMPT BOND ARBITRAGE REBATE EXCEPTIONS FOR PUBLIC SCHOOL CONSTRUCTION BONDS (SECS. 5-6 OF THE BILL AND SEC. 148 OF THE CODE)

##### PRESENT LAW

Interest on debt incurred by State or local governments is excluded from income if the proceeds of the borrowing are used to carry out governmental functions of those entities or the debt is repaid with governmental funds (sec. 103). Like other activities carried out and paid for by State and local governments, the construction, renovation, and operation of public schools is an activity eligible for financing with the proceeds of tax-exempt bonds.

The Federal income tax does not apply to the income of State and local governments that is derived from the exercise of an essential governmental function. To prevent these tax-exempt entities from issuing more tax-exempt bonds than is necessary for the activity being financed or from issuing such bonds earlier than necessary, the Code includes arbitrage restrictions limiting the ability to profit from investment of tax-exempt bond proceeds. In general, arbitrage profits may be earned only during specified periods (e.g., defined "temporary periods") before funds are needed for the purpose of the borrowing or on specified types of investments (e.g., "reasonably required reserve or replacement funds"). Subject to

limited exceptions, profits that are earned during these periods or on such investments must be rebated to the Federal Government.

Present law includes three exceptions applicable to education-related bonds. First, issuers of all types of tax-exempt bonds are not required to rebate arbitrage profits if all of the proceeds of the bonds are spent for the purpose of the borrowing within six months after issuance. In the case of governmental bonds (including bonds to finance public schools), the six-month expenditure exception is treated as satisfied if at least 95 percent of the proceeds is spent within six months and the remaining five percent is spent within 12 months after the bonds are issued.

Second, in the case of bonds issued to finance certain construction activities, including school construction and renovation, the six-month period is extended to 24 months for construction proceeds. Arbitrage profits earned on construction proceeds are not required to be rebated if all such proceeds (other than certain retainage amounts) are spent by the end of the 24-month period and prescribed intermediate spending percentages are satisfied.

Third, governmental bonds issued by “small” governments are not subject to the rebate requirement. Small governments are defined as general purpose governmental units that issue no more than \$5 million of tax-exempt governmental bonds in a calendar year. The \$5 million limit is increased to \$10 million if at least \$5 million of the bonds are used to finance construction of public schools.

#### REASONS FOR CHANGE

The policy underlying the arbitrage rebate exception for bonds of small governmental units is to reduce complexity for these entities because they may not have in-house financial staff to engage in the expenditure and investment tracking necessary for rebate compliance. The exception further is justified by the limited potential for arbitrage profits at small issuance levels and limitation of the provision to governmental bonds, which typically require voter approval before issuance. The Committee believes that a limited increase of \$5 million per year for public school construction bonds will more accurately conform this present-law exception to current school construction costs.

The Committee is aware that a great need exists for construction and renovation of public schools if American educational excellence is to be maintained. The Committee has determined that a more liberal spend-down exception for public school construction bonds is appropriate to allow issuers greater flexibility in the timing of bond issuance for this limited purpose to meet actual construction needs.

#### EXPLANATION OF PROVISION

*Increase amount of bonds that may be issued by governments qualifying for the “small governmental unit” arbitrage rebate exception*

The additional amount of governmental bonds for public schools construction that small governmental units may issue without being subject to the arbitrage rebate requirement is increased from \$5 million to \$10 million. Thus, these governmental units may

issue up to \$15 million of governmental bonds in a calendar year, provided that at least \$10 million of the bonds are used to finance construction of public schools.

*Liberalize construction bond expenditure rule for governmental bonds for public schools*

The present-law 24-month expenditure exception to the arbitrage rebate requirement is liberalized for certain public school bonds. Under the bill, no rebate is required with respect to earnings on available construction proceeds of public school bonds if the proceeds are spent within 48 months after the bonds were issued and the following intermediate spending levels were satisfied:

12 months—At least 10 percent

24 months—At least 30 percent

36 months—At least 60 percent

48 months—100 percent (less present-law retainage amounts which must be spent within 60 months of issuance)

EFFECTIVE DATE

The increase in the small governmental unit arbitrage rebate exception is effective for obligations issued in calendar years beginning after December 31, 2000. The liberalized expenditure exception for public school construction bonds is effective for obligations issued after December 31, 2000.

E. STUDENT LOAN INTEREST DEDUCTION (SEC. 7 OF THE BILL AND SEC. 221 OF THE CODE)

PRESENT LAW

Certain individuals who have paid interest on qualified education loans may claim an above-the-line deduction for such interest expenses, subject to a maximum annual deduction limit (sec. 221). The deduction is allowed only with respect to interest paid on a qualified education loan during the first 60 months in which interest payments are required. Required payments of interest generally do not include nonmandatory payments, such as interest payments made during a period of loan forbearance. Months during which interest payments are not required because the qualified education loan is in deferral or forbearance do not count against the 60-month period. No deduction is allowed to an individual if that individual is claimed as a dependent on another taxpayer's return for the taxable year.

A qualified education loan generally is defined as any indebtedness incurred solely to pay for certain costs of attendance (including room and board) of a student (who may be the taxpayer, taxpayer's spouse, or any dependent of the taxpayer as of the time the indebtedness was incurred) who is enrolled in a degree program on at least a half-time basis at (1) an accredited post-secondary educational institution defined by reference to section 481 of the Higher Education Act of 1965, or (2) an institution conducting an internship or residency program leading to a degree or certificate from an institution of higher education, a hospital, or a health care facility conducting postgraduate training.

The maximum allowable deduction per taxpayer return is \$2,000 in 2000, and \$2,500 in 2001 and thereafter.<sup>11</sup> The deduction is phased out ratably for individual taxpayers with modified adjusted gross income ("AGI") of \$40,000-\$55,000 (\$60,000-\$75,000 for married couples filing joint returns). The income ranges will be indexed for inflation after 2002.

#### REASONS FOR CHANGE

The Committee believes that the income phaseouts for the student loan interest deduction are too low and should be raised. In addition, the Committee is concerned about the inequity of the marriage penalty resulting from the phase-out provisions of the student loan interest deduction. The Committee believes that relief from the marriage penalty is appropriate.

The Committee understands that many students incur considerable debt in the course of obtaining undergraduate and graduate education. The Committee believes that it is appropriate to expand the deduction for individuals who have paid interest on qualified education loans by repealing the limitation that the deduction is allowed only with respect to interest paid during the first 60 months in which interest payments are required. In addition, the repeal of the 60-month limitation lessens complexity and administrative burdens for taxpayers, lenders, loan servicing agencies, and the Internal Revenue Service.

#### EXPLANATION OF PROVISION

The bill increases the beginning point of the income phaseout for the student loan interest deduction for individual taxpayers to \$45,000. The bill also increases the beginning point of the income phaseout for taxpayers filing joint returns to twice the beginning point of the income phaseouts applicable to single taxpayers. Thus, the phase-out ranges are \$45,000 to \$60,000 for individual taxpayers and \$90,000 to \$105,000 for married couples filing joint returns.

The bill also repeals both the limit on the number of months during which interest paid on a qualified education loan is deductible and the restriction that nonmandatory payments of interest are not deductible.

#### EFFECTIVE DATE

The provisions relating to the income phaseout are effective for taxable years beginning after December 31, 2000. The provision repealing the 60-month limit on deductible student loan interest and the restriction on nonmandatory payments is effective for interest paid on qualified education loans after December 31, 2000.

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<sup>11</sup>The maximum allowable deduction was \$1,000 for 1998 and \$1,500 for 1999.

F. TWO-PERCENT FLOOR NOT TO APPLY TO PROFESSIONAL DEVELOPMENT EXPENSES OF TEACHERS (SEC. 8 OF THE BILL AND SEC. 162 OF THE CODE)

PRESENT LAW

In general, taxpayers are not permitted to deduct education expenses. However, employees may deduct the cost of certain work-related education. For costs to be deductible, the education must either be required by the taxpayer's employer or by law to retain taxpayer's current job or be necessary to maintain or improve skills required in the taxpayer's current job. Expenses incurred for education that is necessary to meet minimum education requirements of an employee's present trade or business or that can qualify an employee for a new trade or business are not deductible.

An employee is allowed to deduct work-related education and other business expenses only to the extent such expenses (together with other miscellaneous itemized deductions) exceed two percent of the taxpayer's adjusted gross income.

REASONS FOR CHANGE

The Committee recognizes the importance of teachers receiving continuing education and remaining up to date. The Committee believes that the tax law should facilitate such education of teachers who want to maintain and improve their academic and professional skills.

EXPLANATION OF PROVISION

The bill provides that qualified professional development expenses not in excess of \$1,000 incurred by an elementary or secondary school teacher (including instructors, aides, counselors and principals) with respect to certain courses of instruction would not be subject to the two-percent floor on miscellaneous itemized deductions. Qualified professional development expenses are expenses for tuition, fees, books, supplies, equipment, and transportation required for enrollment or attendance in a qualified course of instruction, provided that such expenses are otherwise deductible under present law. A qualified course of instruction means a professional conference or a course of instruction at an institution of higher education (as defined in sec. 481 of the Higher Education Act of 1965), which is part of a program of professional development that is approved and certified by the appropriate local educational agency as furthering the individual's teaching skills.

EFFECTIVE DATE

The provision is effective for taxable years beginning after December 31, 2000.

G. EXTENSION OF DEDUCTION FOR COMPUTER DONATIONS TO SCHOOLS (SEC. 9 OF THE BILL AND SEC. 170(e)(6) OF THE CODE)

PRESENT LAW

The maximum charitable contribution deduction that may be claimed by a corporation for any one taxable year is limited to 10



percent of the corporation's taxable income for that year (disregarding charitable contributions and with certain other modifications) (sec. 170(b)(2)). Corporations also are subject to certain limitations based on the type of property contributed. In the case of a charitable contribution of short-term gain property, inventory, or other ordinary income property, the amount of the deduction generally is limited to the taxpayer's basis (generally, cost) in the property. However, special rules in the Code provide an augmented deduction for certain corporate contributions. Under these special rules, the amount of the augmented deduction is equal to the lesser of (1) the basis of the donated property plus one-half of the amount of ordinary income that would have been realized if the property had been sold, or (2) twice basis.

Section 170(e)(6) allows corporate taxpayers an augmented deduction for qualified contributions of computer technology and equipment (i.e., computer software, computer or peripheral equipment, and fiber optic cable related to computer use) to be used within the United States for educational purposes in grades K-12. Eligible donees are: (1) any educational organization that normally maintains a regular faculty and curriculum and has a regularly enrolled body of pupils in attendance at the place where its educational activities are regularly carried on; and (2) tax-exempt charitable organizations that are organized primarily for purposes of supporting elementary and secondary education. A private foundation also is an eligible donee, provided that, within 30 days after receipt of the contribution, the private foundation contributes the property to an eligible donee described above.

Qualified contributions are limited to gifts made no later than two years after the date the taxpayer acquired or substantially completed the construction of the donated property. In addition, the original use of the donated property must commence with the donor or the donee. Accordingly, qualified contributions generally are limited to property that is no more than two years old. Such donated property could be computer technology or equipment that is inventory or depreciable trade or business property in the hands of the donor.

Donee organizations are not permitted to transfer the donated property for money or services (e.g., a donee organization cannot sell the computers). However, a donee organization may transfer the donated property in furtherance of its exempt purposes and be reimbursed for shipping, installation, and transfer costs. For example, if a corporation contributes computers to a charity that subsequently distributes the computers to several elementary schools in a given area, the charity could be reimbursed by the elementary schools for shipping, transfer, and installation costs.

The special treatment applies only to donations made by C corporations. Thus, S corporations, personal holding companies, and service organizations are not eligible donors.

The provision is scheduled to expire for contributions made in taxable years beginning after December 31, 2000.

#### REASONS FOR CHANGE

The enhanced deduction for certain donations of computer equipment was enacted to provide an incentive for businesses to invest

their computer equipment and software for the benefit of primary and secondary school students, thereby helping to provide America's schools with the technological resources necessary to prepare both teachers and students for a technologically advanced present and future. The Committee believes that the incentive provided by the enhanced deduction should be continued.

EXPLANATION OF PROVISION

The bill extends the present-law augmented deduction under section 170(e)(6) for one year, so that it expires for contributions made in taxable years beginning after December 31, 2001.

EFFECTIVE DATE

The provision is effective on the date of enactment.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 7.

MOTION TO REPORT THE BILL

The bill, H.R. 7, as amended, was ordered favorably reported by a roll call vote of 21 yeas to 16 nays (with a quorum being present). The vote was as follows:

Representatives	Yea	Nay	Present	Representatives	Yea	Nay	Present
Mr. Archer .....	X	.....	.....	Mr. Rangel .....	.....	X	.....
Mr. Crane .....	.....	.....	.....	Mr. Stark .....	.....	X	.....
Mr. Thomas .....	X	.....	.....	Mr. Matsui .....	.....	X	.....
Mr. Shaw .....	X	.....	.....	Mr. Coyne .....	.....	X	.....
Mrs. Johnson .....	.....	X	.....	Mr. Levin .....	.....	X	.....
Mr. Houghton .....	X	.....	.....	Mr. Cardin .....	.....	X	.....
Mr. Herger .....	X	.....	.....	Mr. McDermott .....	.....	.....	.....
Mr. McCreery .....	X	.....	.....	Mr. Kleczka .....	.....	X	.....
Mr. Camp .....	X	.....	.....	Mr. Lewis (GA) .....	.....	X	.....
Mr. Ramstad .....	X	.....	.....	Mr. Neal .....	.....	X	.....
Mr. Nussle .....	X	.....	.....	Mr. McNulty .....	.....	X	.....
Mr. Johnson .....	X	.....	.....	Mr. Jefferson .....	.....	X	.....
Ms. Dunn .....	X	.....	.....	Mr. Tanner .....	.....	X	.....
Mr. Collins .....	X	.....	.....	Mr. Becerra .....	.....	X	.....
Mr. Portman .....	X	.....	.....	Mrs. Thurman .....	.....	X	.....
Mr. English .....	X	.....	.....	Mr. Doggett .....	.....	X	.....
Mr. Watkins .....	X	.....	.....				
Mr. Hayworth .....	X	.....	.....				
Mr. Weller .....	X	.....	.....				
Mr. Hulshof .....	X	.....	.....				
Mr. McClinnis .....	X	.....	.....				
Mr. Lewis (KY) .....	X	.....	.....				
Mr. Foley .....	X	.....	.....				

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATES

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the estimated budget effects of H.R. 7 as reported.

The bill, as reported, is estimated to have the following effect on the budget:

ESTIMATED BUDGET EFFECTS OF H.R. 7, THE "EDUCATION SAVINGS AND SCHOOL EXCELLENCE ACT OF 2000," AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS

[Fiscal years 2000–2010, in millions of dollars]

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2000–2005	2000–2010
1. Education savings accounts (formerly "Education IRAs")—increase the annual contribution limit to \$2,000; expand the definition of qualified education expenses to include elementary and secondary education expenses (and after-school programs); allow ESAs to be used for special needs beneficiaries; allow corporations and other entities to contribute to ESAs; allow contributions until April 15 of following year; and allow taxpayer to exclude ESA distribution from gross income and claim HOPE or Lifetime Learning credit as long as they are not used for same expenses.	tyba 12/31/00	.....	-53	-175	-267	-356	-447	-543	-645	-749	-856	-965	-1,298	-5,057
2. Prepaid Savings Plans—State-sponsored plans: exclusions for distributions for education expenses; private plans: tax deferral on income and exclusion for distributions for education expenses; allow tax-free education withdrawals from prepaid savings plans as long as they are not used for the same expenses for which HOPE or Lifetime Learning credits are claimed; miscellaneous other changes (clarify definition; one rollover per year).	tyba 12/31/00	.....	-11	-35	-53	-75	-100	-129	-158	-185	-213	-236	-275	-1,196
3. Exclude from tax awards under the following programs: National Health Corps Scholarship program, beginning in 1994; F. Edward Hebert Armed Forces Health Professions Scholarship program, beginning in 1994; National Institutes of Health Undergraduate Scholarship Program, beginning in 1994; and similar State-sponsored scholarship programs, beginning in 2000.	- tyba 12/31/93 & tyba 12/31/99	.....	-1	-5	-3	-3	-3	-4	-4	-4	-5	-5	-20	-41
4. Increase the school construction small issuer arbitrage rebate exception from \$10 million to \$15 million.	oii cyba 2000	.....	( <sup>1</sup> )	-3	-5	-6	-11	-14	-15	-16	-17	-18	-24	-104
5. Provide new 4-year expenditure schedule for bonds for public school construction under the arbitrage rebate rules.	bia 12/31/00	.....	-16	-139	-262	-296	-312	-328	-331	-326	-320	-312	-1,027	-2,644
6. Increase student loan deduction income limits for single taxpayers by \$5,000 and adjust the income limits for married couples filing joint returns to twice that of a single taxpayer, phase-out range of \$15,000 for both; repeal 60-month rule.	tyba 12/31/00	.....	-52	-211	-226	-240	-253	-262	-272	-282	-291	-301	-981	-2,389
7. 2% floor on miscellaneous itemized deductions not to apply to qualified professional development expenses; with \$1,000 cap.	tyba 12/31/00	.....	-5	-10	-10	-11	-11	-11	-12	-12	-12	-12	-47	-106
8. Corporate contributions of computer equipment to primary and secondary schools (one-year extension through 12/31/01).	1/1/01	.....	-43	-37	-2	.....	.....	.....	.....	.....	.....	.....	-82	-82
Net total .....	.....	.....	-1	-185	-613	-828	-987	-1,137	-1,291	-1,437	-1,574	-1,714	-1,849	-11,619

<sup>1</sup> Loss of less than \$500,000.

Legend for "Effective" column: bia=bonds issued after; cyba=calendar years beginning after; oii=obligations issued in; tyba=taxable years beginning after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX  
EXPENDITURES

*Budget authority*

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority.

*Tax expenditures*

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the revenue-reducing income tax provisions involve increased tax expenditures. (See amounts in table in Part IV.A., above.)

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET  
OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring cost estimate prepared by the Congressional Budget Office, the Committee advises that the Congressional Budget Office has submitted the following statement on this bill.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, March 23, 2000.*

Hon. BILL ARCHER,  
*Chairman, Committee on Ways and Means,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 7, the Education Savings and Schools Excellence Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Hester Grippando.

Sincerely, BARRY B. ANDERSON

(For Dan L. Crippen, Director).

Enclosure.

*H.R. 7—Education Savings and School Excellence Act of 1999*

Summary: H.R. 7 would expand the definition of a qualified education expense under an Education Savings Account (formally known as an education IRA) and increases its annual contribution limit. The bill would also liberalize the exemptions from the rules for arbitrage rebates from certain tax-exempt bonds; increase the income limits and repeal the 60-month limit for deductibility of student loan interest; allow tax-free distributions from state and private education programs; amend the two-percent floor rule on miscellaneous deductions as it applies to qualified professional development expenses; extend for one year enhanced deductions for corporate contributions of computer equipment to schools; and eliminate the tax on certain scholarship awards. The Joint Committee on Taxation (JCT) estimates that H.R. 7 would reduce governmental receipts by about \$4 billion over the 2000–2005 period and

by about \$12 billion over the 2000–2010 period. Because the bill would affect receipts, pay-as-you-go procedures would apply.

H.R. 7 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 7 is shown in the following table.

	By fiscal year, in millions of dollars—					
	2000	2001	2002	2003	2004	2005
CHANGES IN REVENUES						
Estimated Revenues:						
On-Budget .....	-1	-182	-612	-826	-985	-1,135
Off-Budget .....	( <sup>1</sup> )	-3	-1	-2	-2	-2
Total Change in Revenues .....	-1	-185	-613	-828	-987	-1,137

<sup>1</sup> Less than \$500,000.

Source: Joint Committee on Taxation.

Basis of estimate: Estimates of H.R. 7 are provided by JCT.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year, in millions of dollars—										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in receipts	-1	-182	-612	-826	-985	-1,135	-1,289	-1,435	-1,572	-1,712	-1,847
Changes in outlays ..	not applicable										

Intergovernmental and private-sector impact: H.R. 7 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal Costs: Hester Grippando.

Estimate approved by: G. Thomas Woodward, Assistant Director for Tax Analysis.

## V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

### A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was the result of the Committee's oversight activities concerning the expansion of the education savings provisions to elementary and secondary education expenses that the Committee concluded that it is appropriate to enact the provisions contained in the bill as reported.

#### B. SUMMARY OF FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that no oversight findings or recommendations have been submitted to this Committee by the Committee on Government Reform and Oversight with respect to the provisions contained in the bill.

#### C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 7 ("All bills for raising revenue shall originate in the House of Representatives") and Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts . . . of the United States"), and from the 16th Amendment to the Constitution.

#### D. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, and tribal governments.

#### E. APPLICABILITY OF HOUSE RULE XXI5(b)

Rule XXI5(b) of the Rules of the House of Representatives provides, in part, that "No bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase shall be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increase within the meaning of the rule.

#### F. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that

amend the Internal Revenue Code and that have “widespread applicability” to individuals or small businesses.

**VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**INTERNAL REVENUE CODE**

\* \* \* \* \*

**Subtitle A—Income Taxes**

\* \* \* \* \*

**CHAPTER 1—NORMAL TAXES AND SURTAXES**

\* \* \* \* \*

**Subchapter A—Determination of Tax Liability**

\* \* \* \* \*

**PART I—TAX ON INDIVIDUALS**

\* \* \* \* \*

**SEC. 25A. HOPE AND LIFETIME LEARNING CREDITS.**

(a) ALLOWANCE OF CREDIT.—

\* \* \* \* \*

(e) ELECTION TO HAVE SECTION APPLY.—

(1) IN GENERAL.—No credit shall be allowed under subsection (a) for a taxable year with respect to the qualified tuition and related expenses of an individual unless the taxpayer elects to have this section apply with respect to such individual for such year.

(2) COORDINATION WITH EXCLUSIONS.—An election under this subsection shall not take effect with respect to an individual for any taxable year if any portion of any distribution during such taxable year from an [education individual retirement] *education savings* account is excluded from gross income under section 530(d)(2).

\* \* \* \* \*

**SEC. 26. LIMITATION BASED ON TAX LIABILITY; DEFINITION OF TAX LIABILITY.**

(a) \* \* \*

(b) REGULAR TAX LIABILITY.—For purposes of this part—

(1) \* \* \*



(2) EXCEPTION FOR CERTAIN TAXES.—For purposes of paragraph (1), any tax imposed by any of the following provisions shall not be treated as tax imposed by this chapter:

(A) \* \* \*

\* \* \* \* \*

(E) section 530(d)(3) (relating to additional tax on certain distributions from [education individual retirement] *education savings* accounts),

\* \* \* \* \*

**Subchapter B—Computation of Taxable Income**

\* \* \* \* \*

**PART I—DEFINITION OF GROSS INCOME, ADJUSTED GROSS INCOME, TAXABLE INCOME, ETC.**

\* \* \* \* \*

**SEC. 67. 2-PERCENT FLOOR ON MISCELLANEOUS ITEMIZED DEDUCTIONS.**

(a) \* \* \*

\* \* \* \* \*

(b) MISCELLANEOUS ITEMIZED DEDUCTIONS.—For purposes of this section, the term “miscellaneous itemized deductions” means the itemized deductions other than—

(1) \* \* \*

\* \* \* \* \*

(11) the deduction under section 171 (relating to deduction for amortizable bond premium), [and]

(12) the deduction under section 216 (relating to deductions in connection with cooperative housing corporations)[.], and

(13) any deduction allowable for the qualified professional development expenses of an eligible teacher.

\* \* \* \* \*

(g) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES OF ELIGIBLE TEACHERS.—For purposes of subsection (b)(13)—

(1) QUALIFIED PROFESSIONAL DEVELOPMENT EXPENSES.—

(A) IN GENERAL.—The term “qualified professional development expenses” means expenses in an amount not to exceed \$1,000 for any taxable year—

(i) for tuition, fees, books, supplies, equipment, and transportation required for the enrollment or attendance of an individual in a qualified course of instruction, and

(ii) with respect to which a deduction is allowable under section 162 (determined without regard to this section).

(B) QUALIFIED COURSE OF INSTRUCTION.—The term “qualified course of instruction” means a course of instruction which—

(i) is—

(I) at an institution of higher education (as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088), as in effect on the date of the enactment of this subsection), or

(II) a professional conference, and

(ii) is part of a program of professional development which is approved and certified by the appropriate local educational agency as furthering the individual's teaching skills.

(C) LOCAL EDUCATIONAL AGENCY.—The term “local educational agency” has the meaning given such term by section 14101 of the Elementary and Secondary Education Act of 1965, as so in effect.

(2) ELIGIBLE TEACHER.—

(A) IN GENERAL.—The term “eligible teacher” means an individual who is a kindergarten through grade 12 classroom teacher, instructor, counselor, aide, or principal in an elementary or secondary school.

(B) ELEMENTARY OR SECONDARY SCHOOL.—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 so in effect.

\* \* \* \* \*

**SEC. 72. ANNUITIES; CERTAIN PROCEEDS OF ENDOWMENT AND LIFE INSURANCE CONTRACTS.**

(a) \* \* \*

\* \* \* \* \*

(e) AMOUNTS NOT RECEIVED AS ANNUITIES.—

(1) \* \* \*

\* \* \* \* \*

(9) EXTENSION OF PARAGRAPH (2)(B) TO QUALIFIED [STATE] TUITION PROGRAMS AND [EDUCATIONAL INDIVIDUAL RETIREMENT ACCOUNTS] EDUCATION SAVINGS ACCOUNTS.—Notwithstanding any other provision of this subsection, paragraph (2)(B) shall apply to amounts received under a qualified [State] tuition program (as defined in section 529(b)) or under an [education individual retirement] education savings account (as defined in section 530(b)). The rule of paragraph (8)(B) shall apply for purposes of this paragraph.

\* \* \* \* \*

**PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME**

\* \* \* \* \*

**SEC. 117. QUALIFIED SCHOLARSHIPS.**

(a) \* \* \*

\* \* \* \* \*

(c) LIMITATION.—[Subsections (a)]

(1) *IN GENERAL.*—*Except as provided in paragraph (2), subsections (a) and (d) shall not apply to that portion of any amount received which represents payment for teaching, research, or other services by the student required as a condition for receiving the qualified scholarship or qualified tuition reduction.*

(2) *EXCEPTIONS.*—*Paragraph (1) shall not apply to any amount received by an individual under—*

(A) *the National Health Service Corps Scholarship program under section 338A(g)(1)(A) of the Public Health Service Act,*

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

(C) *the National Institutes of Health Undergraduate Scholarship program under section 487D of the Public Health Service Act, or*

(D) *any State program determined by the Secretary to have substantially similar objectives as such programs.*

\* \* \* \* \*

**SEC. 135. INCOME FROM UNITED STATES SAVINGS BONDS USED TO PAY HIGHER EDUCATION TUITION AND FEES.**

(a) \* \* \*

\* \* \* \* \*

(c) **DEFINITIONS.**—For purposes of this section—

(1) \* \* \*

\* \* \* \* \*

(2) **QUALIFIED HIGHER EDUCATION EXPENSES.**—

(A) \* \* \*

\* \* \* \* \*

(C) **CONTRIBUTIONS TO QUALIFIED [STATE] TUITION PROGRAM AND [EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS] EDUCATION SAVINGS ACCOUNTS.**—Such term shall include any contribution to a qualified [State] tuition program (as defined in section 529 on behalf of a designated beneficiary (as defined in such section), or to an [education individual retirement] *education savings* account (as defined in section 530 on behalf of an account beneficiary, who is an individual described in subparagraph (A); 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 this subparagraph.

\* \* \* \* \*

(d) **SPECIAL RULES.**—

(1) **ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.**—The amount of qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by the sum of the amounts received with respect to such individual for the taxable year as—

(A) \* \* \*

\* \* \* \* \*

(D) a payment, waiver, or reimbursement of qualified higher education expenses under a qualified [State] tuition program (within the meaning of section 529(b).

(2) COORDINATION WITH OTHER HIGHER EDUCATION BENEFITS.—The amount of the qualified higher education expenses otherwise taken into account under subsection (a) with respect to the education of an individual shall be reduced (before the application of subsection (b)) by—

(A) the amount of such expenses which are taken into account in determining the credit [allowable] allowed to the taxpayer or any other person under section 25A with respect to such expenses; and

(B) the amount of such expenses which are taken into account in determining [the exclusion under section 530(d)(2)] the exclusions under sections 529(c)(3)(B)(i) and 530(d)(2).

\* \* \* \* \*

**PART IV—TAX EXEMPTION REQUIREMENTS FOR STATE AND LOCAL BONDS**

\* \* \* \* \*

**Subpart B—Private Activity Bonds**

\* \* \* \* \*

**SEC. 148. ARBITRAGE.**

(a) \* \* \*

\* \* \* \* \*

(f) REQUIRED REBATE TO THE UNITED STATES.—

(1) \* \* \*

\* \* \* \* \*

(4) SPECIAL RULES FOR APPLYING PARAGRAPH (2).—

(A) \* \* \*

\* \* \* \* \*

(C) EXCEPTION FROM REBATE FOR CERTAIN PROCEEDS TO BE USED TO FINANCE CONSTRUCTION EXPENDITURES.—

(i) \* \* \*

\* \* \* \* \*

(xviii) 4-YEAR SPENDING REQUIREMENT FOR PUBLIC SCHOOL CONSTRUCTION ISSUE.—

(I) IN GENERAL.—In the case of a public school construction issue, the spending requirements of clause (ii) shall be treated as met if at least 10 percent of the available construction proceeds of the construction issue are spent for the governmental purposes of the issue within the 1-year period beginning on the date the bonds are issued, 30 percent of such proceeds are spent for such purposes within the 2-year period beginning on such date,

60 percent of such proceeds are spent for such purposes within the 3-year period beginning on such date, and 100 percent of such proceeds are spent for such purposes within the 4-year period beginning on such date.

(II) PUBLIC SCHOOL CONSTRUCTION ISSUE.—For purposes of this clause, the term “public school construction issue” means any construction issue if no bond which is part of such issue is a private activity bond and all of the available construction proceeds of such issue are to be used for the construction (as defined in clause (iv)) of public school facilities to provide education or training below the postsecondary level or for the acquisition of land that is functionally related and subordinate to such facilities.

(III) OTHER RULES TO APPLY.—Rules similar to the rules of the preceding provisions of this subparagraph which apply to clause (ii) also apply to this clause.

(D) EXCEPTION FOR GOVERNMENTAL UNITS ISSUING \$5,000,000 OR LESS OF BONDS.—

(i) \* \* \*

\* \* \* \* \*

(vii) INCREASE IN EXCEPTION FOR BONDS FINANCING PUBLIC SCHOOL CAPITAL EXPENDITURES.—Each of the \$5,000,000 amounts in the preceding provisions of this subparagraph shall be increased by the lesser of **[\$5,000,000]** \$10,000,000 or so much of the aggregate face amount of the bonds as are attributable to financing the construction (within the meaning of subparagraph (C)(iv)) of public school facilities.

\* \* \* \* \*

**PART VI—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS**

\* \* \* \* \*

**SEC. 170. CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.**

(a) \* \* \*

\* \* \* \* \*

(e) CERTAIN CONTRIBUTIONS OF ORDINARY INCOME AND CAPITAL GAIN PROPERTY.—

(1) \* \* \*

\* \* \* \* \*

(6) SPECIAL RULE FOR CONTRIBUTIONS OF COMPUTER TECHNOLOGY AND EQUIPMENT FOR ELEMENTARY OR SECONDARY SCHOOL PURPOSES.—

(A) \* \* \*

\* \* \* \* \*

(F) TERMINATION.—This paragraph shall not apply to any contribution made during any taxable year beginning after December 31, ~~2000~~ 2001.

\* \* \* \* \*

**PART VII—ADDITIONAL ITEMIZED DEDUCTIONS FOR INDIVIDUALS**

\* \* \* \* \*

**SEC. 221. INTEREST ON EDUCATION LOANS.**

(a) \* \* \*

\* \* \* \* \*

(b) MAXIMUM DEDUCTION.—

(1) \* \* \*

\* \* \* \* \*

(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

(A) \* \* \*

(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph is the amount which bears the same ratio to the amount which would be so taken into account as—

[(i) the excess of—

[(I) the taxpayer's modified adjusted gross income for such taxable year, over

[(II) \$40,000 (\$60,000 in the case of a joint return), bears to

[(ii) \$15,000.]

(i) the excess of—

(I) the taxpayer's modified adjusted gross income for such taxable year, over

(II) \$45,000 (\$90,000 in the case of a joint return), bears to

(ii) \$15,000.

\* \* \* \* \*

[(d) LIMIT ON PERIOD DEDUCTION ALLOWED.—A deduction shall be allowed under this section only with respect to interest paid on any qualified education loan during the first 60 months (whether or not consecutive) in which interest payments are required. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan. Such 60 months shall be determined in the manner prescribed by the Secretary in the case of multiple loans which are refinanced by, or serviced as, a single loan and in the case of loans incurred before the date of the enactment of this section.]

[(e) (d) DEFINITIONS.—For purposes of this section—

(1) \* \* \*

(2) QUALIFIED HIGHER EDUCATION EXPENSES.—The term “qualified higher education expenses” means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll, as in effect on the day before the date

of the enactment of this Act) at an eligible educational institution, reduced by the sum of—

(A) the amount excluded from gross income under section 127, 135, 529, or 530 by reason of such expenses, and

\* \* \* \* \*

**[(f)] (e) SPECIAL RULES.—**

(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the deduction shall be allowed under subsection (a) only if the taxpayer and the taxpayer’s spouse file a joint return for the taxable year.

(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.

**[(g)] (f) INFLATION ADJUSTMENTS.—**

(1) IN GENERAL.—In the case of a taxable year beginning after 2002, the **[\$40,000 and \$60,000 amounts]** *\$45,000 and \$90,000 amounts* in subsection (b)(2) shall each be increased by an amount equal to—

(A) such dollar amount, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting “calendar year 2001” for “calendar year 1992” in subparagraph (B) thereof.

\* \* \* \* \*

**Subchapter F—Exempt Organizations**

\* \* \* \* \*

**PART VIII—HIGHER EDUCATION SAVINGS ENTITIES**

Sec. 529. Qualified **[state]** tuition programs.

**[Sec. 530. Education individual retirement accounts.]**

*Sec. 530. Education savings accounts.*

\* \* \* \* \*

**SEC. 529. QUALIFIED [STATE] TUITION PROGRAMS.**

(a) GENERAL RULE.—A qualified **[State]** tuition program shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such program shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

(b) QUALIFIED **[STATE]** TUITION PROGRAM.—For purposes of this section—

(1) IN GENERAL.—The term “qualified **[State]** tuition program” means a program established and maintained by a State or agency or instrumentality thereof *or by one or more eligible educational institutions—*

(A) under which a person—

(i) \* \* \*

(ii) *in the case of a program established and maintained by a State or agency or instrumentality thereof,*

may make contributions to an account which is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, and

(B) which meets the other requirements of this subsection.

(2) CASH CONTRIBUTIONS.—A program shall not be treated as a qualified **[State]** tuition program unless it provides that purchases or contributions may only be made in cash.

(3) REFUNDS.—A program shall not be treated as a qualified **[State]** tuition program unless it imposes a more than de minimis penalty on any refund of earnings from the account which are not—

\* \* \* \* \*

(4) SEPARATE ACCOUNTING.—A program shall not be treated as a qualified **[State]** tuition program unless it provides separate accounting for each designated beneficiary.

(5) NO INVESTMENT DIRECTION.—A program shall not be treated as a qualified **[State]** tuition program unless it provides that any contributor to, or designated beneficiary under, such program may not directly or indirectly direct the investment of any contributions to the program (or any earnings thereon).

(6) NO PLEDGING OF INTEREST AS SECURITY.—A program shall not be treated as a qualified **[State]** tuition program if it allows any interest in the program or any portion thereof to be used as security for a loan.

(7) PROHIBITION ON EXCESS CONTRIBUTIONS.—A program shall not be treated as a qualified **[State]** tuition program unless it provides adequate safeguards to prevent contributions on behalf of a designated beneficiary in excess of those necessary to provide for the qualified higher education expenses of the beneficiary.

(c) TAX TREATMENT OF DESIGNATED BENEFICIARIES AND CONTRIBUTORS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, no amount shall be includible in gross income of—

(A) a designated beneficiary under a qualified **[State]** tuition program, or

(B) a contributor to such program on behalf of a designated beneficiary,

\* \* \* \* \*

(3) DISTRIBUTIONS.—

(A) IN GENERAL.—Any distribution under a qualified **[State]** tuition program shall be includible in the gross income of the distributee in the manner as provided under section 72 to the extent not excluded from gross income under any other provision of this chapter.

**[(B) IN-KIND DISTRIBUTIONS.—Any benefit furnished to a designated beneficiary under a qualified State tuition program shall be treated as a distribution to the beneficiary.]**

*(B) DISTRIBUTIONS FOR QUALIFIED HIGHER EDUCATION EXPENSES.—For purposes of this paragraph—*



(i) *IN-KIND DISTRIBUTIONS.*—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.

(ii) *CASH DISTRIBUTIONS.*—In the case of distributions not described in clause (i), if—

(I) such distributions do not exceed the qualified higher education expenses (reduced by expenses described in clause (i)), no amount shall be includible in gross income, and

(II) in any other case, the amount otherwise includible in gross income shall be reduced by an amount which bears the same ratio to such amount as such expenses bear to such distributions.

(iii) *TREATMENT AS 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.*—The total amount of qualified higher education expenses with respect to an individual for the taxable year shall be reduced—

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

(II) 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.

(v) *COORDINATION WITH EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.*—If, with respect to an individual for any taxable year—

(I) the aggregate distributions to which clauses (i) and (ii) and section 530(d)(2)(A) apply, exceed

(II) the total amount of qualified higher education expenses otherwise taken into account under clauses (i) and (ii) (after the application of clause (iv)) for such year,

the taxpayer shall allocate such expenses among such distributions for purposes of determining the amount of the exclusion under clauses (i) and (ii) and section 530(d)(2)(A).

(C) *CHANGE IN BENEFICIARIES OR PROGRAMS.*—

(i) *ROLLOVERS.*—Subparagraph (A) shall not apply to that portion of any distribution which, within 60 days of such distribution, is **transferred to the credit** transferred—

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

(II) to the credit of another designated beneficiary under a qualified **[State]** tuition program who is a member of the family of the designated

beneficiary with respect to which the distribution was made.

(ii) CHANGE IN DESIGNATED BENEFICIARIES.—Any change in the designated beneficiary of an interest in a qualified [State] tuition program shall not be treated as a distribution for purposes of subparagraph (A) if the new beneficiary is a member of the family of the old beneficiary.

(iii) LIMITATION ON CERTAIN ROLLOVERS.—*Clause (i)(I) shall not apply to any amount transferred with respect to a designated beneficiary if, at any time during the 1-year period ending on the day of such transfer, any other amount was transferred with respect to such beneficiary which was not includible in gross income by reason of clause (i)(I).*

(D) OPERATING RULES.—For purposes of applying section 72—

(i) to the extent provided by the Secretary, all qualified [State] tuition programs of which an individual is a designated beneficiary shall be treated as one program,

\* \* \* \* \*

(d) REPORTS.—Each officer or employee having control of the qualified [State] tuition program or their designee shall make such reports regarding such program to the Secretary and to designated beneficiaries with respect to contributions, distributions, and such other matters as the Secretary may require. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by the Secretary.

(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

(1) DESIGNATED BENEFICIARY.—The term “designated beneficiary” means—

(A) the individual designated at the commencement of participation in the qualified [State] tuition program as the beneficiary of amounts paid (or to be paid) to the program,

(B) in the case of a change in beneficiaries described in subsection (c)(3)(C), the individual who is the new beneficiary, and

(C) in the case of an interest in a qualified [State] tuition program purchased by a State or local government (or agency or instrumentality thereof) or an organization described in section 501(c)(3) and exempt from taxation under section 501(a) as part of a scholarship program operated by such government or organization, the individual receiving such interest as a scholarship.

(2) MEMBER OF FAMILY.—The term “member of the family” means, with respect to any designated beneficiary—

(A) \* \* \*

(B) an individual who bears a relationship to such beneficiary which is described in paragraphs (1) through (8) of section 152(a); [and]

(C) the spouse of any individual described in subparagraph (B) **[.]**; and  
 (D) any first cousin of such beneficiary.

(3) QUALIFIED HIGHER EDUCATION EXPENSES.—

**[ (A) IN GENERAL.—**The term “qualified higher education expenses” means tuition, fees, books, supplies, and equipment required for the enrollment or attendance of a designated beneficiary at an eligible educational institution. **]**

*(A) IN GENERAL.—The term “qualified higher education expenses” means—*

*(i) tuition and fees required for the enrollment or attendance of a designated beneficiary at an eligible educational institution for courses of instruction of such beneficiary at such institution, and*

*(ii) expenses for books, supplies, and equipment which are incurred in connection with such enrollment or attendance, but not to exceed the allowance for books and supplies included in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087l), as in effect on the date of the enactment of the Education Savings and School Excellence Act of 2000 as determined by the eligible educational institution.*

**(B) ROOM AND BOARD INCLUDED FOR STUDENTS UNDER GUARANTEED PLANS WHO ARE AT LEAST HALF-TIME.—**

**(i) IN GENERAL.—**In the case of an individual who is an eligible student (as defined in section 25A(b)(3)) for any academic period, such term shall also include reasonable costs for such period (as determined under the qualified **[State]** tuition program) incurred by the designated beneficiary for room and board while attending such institution. For purposes of subsection (b)(7), a designated beneficiary shall be treated as meeting the requirements of this clause.

**(ii) LIMITATION.—**The amount treated as qualified higher education expenses by reason of the preceding sentence shall not exceed the minimum amount (applicable to the student) included for room and board for such period in the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087l, as in effect on the date of the enactment of this paragraph) for the eligible educational institution for such period.

**(C) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—***The term “qualified higher education expenses” shall not include expenses with respect to any course or other education involving sports, games, or hobbies unless such course or other education is part of the beneficiary’s degree program or is taken to acquire or improve job skills of the beneficiary.*

**(4) APPLICATION OF SECTION 514.—**An interest in a qualified **[State]** tuition program shall not be treated as debt for purposes of section 514.

\* \* \* \* \*

**[SEC. 530. EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS.]****SEC. 530. EDUCATION SAVINGS ACCOUNTS.**

(a) **GENERAL RULE.**—An **[education individual retirement account]** *education savings account* shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, the **[education individual retirement account]** *education savings account* shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

(b) **DEFINITIONS AND SPECIAL RULES.**—For purposes of this section—

(1) **[EDUCATION INDIVIDUAL RETIREMENT ACCOUNT]** *EDUCATION SAVINGS ACCOUNT.*—The term “**[education individual retirement account]** *education savings account*” means a trust created or organized in the United States exclusively for the purpose of paying the qualified **[higher]** education expenses of an individual who is the designated beneficiary of the trust (and designated as an **[education individual retirement account]** *education savings account* at the time created or organized), but only if the written governing instrument creating the trust meets the following requirements:

(A) No contribution will be accepted—

- (i) unless it is in cash,
- (ii) after the date on which such beneficiary attains age 18, or
- (iii) except in the case of rollover contributions, if such contribution would result in aggregate contributions for the taxable year exceeding **[\$500]** \$2,000.

\* \* \* \* \*

*The age limitations in subparagraphs (A)(ii) and (E) 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).*

**[(2) QUALIFIED HIGHER EDUCATION EXPENSES.—**

**[(A) IN GENERAL.**—The term “qualified higher education expenses” has the meaning given such term by section 529(e)(3), reduced as provided in section 25A(g)(2).

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

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

**(A) IN GENERAL.**—The term “qualified education expenses” means—

- (i) *qualified higher education expenses (as defined in section 529(e)(3)), and*
- (ii) *qualified elementary and secondary education expenses (as defined in paragraph (4)).*

**(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 des-

*ignated 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).*

(3) **ELIGIBLE EDUCATIONAL INSTITUTION.**—The term “eligible educational institution” has the meaning given such term by section 529(e)(5).

(4) **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.

(5) **TIME WHEN CONTRIBUTIONS DEEMED MADE.**—An individual shall be deemed to have made a contribution to an education savings 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).

(c) **REDUCTION IN PERMITTED CONTRIBUTIONS BASED ON ADJUSTED GROSS INCOME.**—

(1) **IN GENERAL.**—**[The maximum amount which a contributor]** *In the case of a contributor who is an individual, the maximum amount the contributor could otherwise make to an account under this section shall be reduced by an amount which bears the same ratio to such maximum amount as—*

(A) \* \* \*

\* \* \* \* \*

(d) **TAX TREATMENT OF DISTRIBUTIONS.**—

(1) **IN GENERAL.**—Any distribution shall be includible in the gross income of the distributee in the manner as provided in section 72.

(2) DISTRIBUTIONS FOR QUALIFIED [HIGHER] EDUCATION EXPENSES.—

(A) IN GENERAL.—No amount shall be includible in gross income under paragraph (1) if the qualified [higher] education expenses of the designated beneficiary during the taxable year are not less than the aggregate distributions during the taxable year.

(B) DISTRIBUTIONS IN EXCESS OF EXPENSES.—If such aggregate distributions exceed such expenses during the taxable year, the amount otherwise includible in gross income under paragraph (1) shall be reduced by the amount which bears the same ratio to the amount which would be includible in gross income under paragraph (1) (without regard to this subparagraph) as the qualified [higher] education expenses bear to such aggregate distributions.

[(C) ELECTION TO WAIVE EXCLUSION.—A taxpayer may elect to waive the application of this paragraph for any taxable year.]

(C) COORDINATION WITH HOPE AND LIFETIME LEARNING CREDITS AND QUALIFIED TUITION PROGRAMS.—For purposes of subparagraph (A)—

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

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

(II) 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.

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

(I) the aggregate distributions during such year to which subparagraph (A) and section 529(c)(3)(B) apply, exceed

(II) the total amount of qualified education expenses (after the application of clause (i)) for such 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).

(D) DISALLOWANCE OF EXCLUDED AMOUNTS AS [CREDIT OR] DEDUCTION.—No deduction [or credit] shall be allowed to the taxpayer under any other section of this chapter for any qualified education expenses to the extent taken into account in determining the amount of the exclusion under this paragraph.

(3) SPECIAL RULES FOR APPLYING ESTATE AND GIFT TAXES WITH RESPECT TO ACCOUNT.—Rules similar to the rules of paragraphs (2), (4), and (5) of section 529(c) shall apply for purposes of this section.

(4) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR EDUCATIONAL EXPENSES.—

(A) IN GENERAL.—The tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from an [education individual retirement account] *education savings account* which is includible in gross income shall be increased by 10 percent of the amount which is so includible.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply if the payment or distribution is—

(i) made to a beneficiary (or to the estate of the designated beneficiary) on or after the death of the designated beneficiary,

(ii) attributable to the designated beneficiary's being disabled (within the meaning of section 72(m)(7)),

(iii) made on account of a scholarship, allowance, or payment described in section 25A(g)(2) received by the account holder to the extent the amount of the payment or distribution does not exceed the amount of the scholarship, allowance, or payment; or

(iv) an amount which is includible in gross income solely because the taxpayer elected under paragraph (2)(C) to waive the application of paragraph (2) for the taxable year.

(C) CONTRIBUTIONS RETURNED BEFORE [DUE DATE OF RETURN] *CERTAIN DATE*.—Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of the designated beneficiary if—

[(i) such distribution is made on or before the day prescribed by law (including extensions of time) for filing the beneficiary's return of tax for the taxable year or, if the beneficiary is not required to file such a return, the 15th day of the 4th month of the taxable year following the taxable year; and]

(i) *such distribution is made before the first day of the sixth month of the taxable year following the taxable year, and*

(ii) such distribution is accompanied by the amount of net income attributable to such excess contribution. Any net income described in clause (ii) shall be included in gross income for the taxable year in which such excess contribution was made.

(5) ROLLOVER CONTRIBUTIONS.—Paragraph (1) shall not apply to any amount paid or distributed from an [education individual retirement account] *education savings account* to the extent that the amount received is paid, not later than the 60th day after the date of such payment or distribution, into another [education individual retirement account] *education savings account* for the benefit of the same beneficiary or a member of the family (within the meaning of section 529(e)(2)) of such beneficiary who has not attained age 30 as of such date. The preceding sentence shall not apply to any payment or distribution if it applied to any prior payment or distribution during the 12-month period ending on the date of the payment or distribution.

(6) CHANGE IN BENEFICIARY.—Any change in the beneficiary of an [education individual retirement account] *education savings account* shall not be treated as a distribution for purposes of paragraph (1) if the new beneficiary is a member of the family (as so defined) of the old beneficiary and has not attained age 30 as of the date of such change.

(7) SPECIAL RULES FOR DEATH AND DIVORCE.—Rules similar to the rules of paragraphs (7) and (8) of section 220(f) shall apply. In applying the preceding sentence, members of the family (as so defined) of the designated beneficiary shall be treated in the same manner as the spouse under such paragraph (8).

(8) DEEMED DISTRIBUTION ON REQUIRED DISTRIBUTION DATE.—In any case in which a distribution is required under subsection (b)(1)(E), any balance to the credit of a designated beneficiary as of the close of the 30-day period referred to in such subsection for making such distribution shall be deemed distributed at the close of such period.

(e) TAX TREATMENT OF ACCOUNTS.—Rules similar to the rules of paragraphs (2) and (4) of section 408(e) shall apply to any [education individual retirement account] *education savings account*.

(f) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to any community property laws.

(g) CUSTODIAL ACCOUNTS.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an account described in subsection (b)(1). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

(h) REPORTS.—The trustee of an [education individual retirement account] *education savings account* shall make such reports regarding such account to the Secretary and to the beneficiary of the account with respect to contributions, distributions, and such other matters as the Secretary may require. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required.

\* \* \* \* \*

**Subtitle D—Miscellaneous Excise Taxes**

\* \* \* \* \*

**CHAPTER 43—QUALIFIED PENSION, ETC., PLANS**

\* \* \* \* \*



**SEC. 4973. TAX ON EXCESS CONTRIBUTIONS TO CERTAIN TAX-FAVORED ACCOUNTS AND ANNUITIES.**

(a) TAX IMPOSED.—In the case of—

(1) \* \* \*

\* \* \* \* \*

(4) an [education individual retirement] *education savings* account (as defined in section 530, there is imposed for each taxable year a tax in an amount equal to 6 percent of the amount of the excess contributions to such individual's accounts or annuities (determined as of the close of the taxable year). The amount of such tax for any taxable year shall not exceed 6 percent of the value of the account or annuity (determined as of the close of the taxable year). In the case of an endowment contract described in section 408(b), the tax imposed by this section does not apply to any amount allocable to life, health, accident, or other insurance under such contract. The tax imposed by this subsection shall be paid by such individual.

(e) EXCESS CONTRIBUTIONS TO [EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS] *EDUCATION SAVINGS ACCOUNTS*.—For purposes of this section—

(1) IN GENERAL.—In the case of [education individual retirement] *education savings* accounts maintained for the benefit of any one beneficiary, the term “excess contributions” means the sum of—

(A) the amount by which the amount contributed for the taxable year to such accounts exceeds [ \$500 ] \$2,000 (or, if less, the sum of the maximum amounts permitted to be contributed under section 530(c) by the contributors to such accounts for such year); and

[(B) if any amount is contributed (other than a contribution described in section 530(b)(2)(B)) during such year to a qualified State tuition program for the benefit of such beneficiary, any amount contributed to such accounts for such taxable year; and]

[(C) (B) the amount determined under this subsection for the preceding taxable year, reduced by the sum of—

(i) the distributions out of the accounts for the taxable year (other than rollover distributions); and

(ii) the excess (if any) of the maximum amount which may be contributed to the accounts for the taxable year over the amount contributed to the accounts for the taxable year.

(2) SPECIAL RULES.—For purposes of paragraph (1), the following contributions shall not be taken into account:

(A) Any contribution which is distributed out of the [education individual retirement] *education savings* account in a distribution to which section 530(d)(4)(C) applies.

(B) Any rollover contribution.

\* \* \* \* \*

**SEC. 4975. TAX ON PROHIBITED TRANSACTIONS.**

(a) \* \* \*

\* \* \* \* \*

(c) PROHIBITED TRANSACTION.—

(1) \* \* \*

\* \* \* \* \*

(5) SPECIAL RULE FOR EDUCATION **[INDIVIDUAL RETIREMENT] SAVINGS ACCOUNTS.**—An individual for whose benefit an education **[individual retirement] savings** account is established and any contributor to such account shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if section 530(d) applies with respect to such transaction.

\* \* \* \* \*

(e) DEFINITIONS.—

(1) PLAN.—For purposes of this section, the term “plan” means—

(A) \* \* \*

\* \* \* \* \*

(E) an education **[individual retirement] savings** account described in section 530, or

\* \* \* \* \*

**Subtitle F—Procedure and Administration**

\* \* \* \* \*

**CHAPTER 61—INFORMATION AND RETURNS**

\* \* \* \* \*

**Subchapter A—Returns and Records**

\* \* \* \* \*

**PART III—INFORMATION RETURNS**

\* \* \* \* \*

**Subpart A—Information Concerning Persons Subject to Special Provisions**

\* \* \* \* \*

**SEC. 6050S. RETURNS RELATING TO HIGHER EDUCATION TUITION AND RELATED EXPENSES.**

(a) \* \* \*

\* \* \* \* \*

(e) DEFINITIONS.—For purposes of this section, the terms “eligible educational institution” and “qualified tuition and related expenses” have the meanings given such terms by section 25A (with-

out regard to subsection (g)(2) thereof), and except as provided in regulations, the term “qualified education loan” has the meaning given such term by section **[221(e)(1)] 221(d)(1)**.

\* \* \* \* \*

**CHAPTER 68—ADDITIONS TO THE TAX, ADDITIONAL AMOUNTS, AND ASSESSABLE PENALTIES**

\* \* \* \* \*

**Subchapter B—Assessable Penalties**

\* \* \* \* \*

**PART I—GENERAL PROVISIONS**

\* \* \* \* \*

**SEC. 6693. FAILURE TO PROVIDE REPORTS ON CERTAIN TAX-FAVORED ACCOUNTS OR ANNUITIES; PENALTIES RELATING TO DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.**

(a) **REPORTS.**—

(1) \* \* \*

(2) **PROVISIONS.**—The provisions referred to in this paragraph are—

(A) \* \* \*

\* \* \* \* \*

(C) section 529(d) (relating to qualified **[State]** tuition programs), and

(D) section 530(h) (relating to education **[individual retirement] savings** accounts).

\* \* \* \* \*

## VII. DISSENTING VIEWS

It had been our hope that expanding educational opportunities for our children is an issue where the Committee could set aside its partisan differences and work together. There are many other issues on which we can campaign this fall. The fact that Congressman Rangel and Congresswoman Nancy Johnson reached across the partisan divide to formulate a bipartisan school construction bill gave credence to those hopes. The Committee markup on this bill and the fact that the markup was called by the Chairman under orders from the Republican House Leadership indicates that those hopes were unrealistic. The House Republican Leadership's strategy is clear. In the area of expanding educational opportunities, they will seek partisan confrontation and vetoes rather than bipartisan accomplishment.

The Committee bill contains several provisions for which there is broad bipartisan support. Those provisions include liberalizing the student loan interest deduction and expanding access to prepaid tuition programs for higher education. Rather than include those provisions in a bill designed to become law, the Committee voted to include those provisions in legislation deliberately designed to be vetoed.

The President is correct in his adamant opposition to the so-called "Coverdell" provision included in the Committee bill. He has vetoed it twice before and will do so again if presented to him in future legislation. It is a diversion of scarce resources that could be used to improve the public schools—where 90 percent of our students are educated. It does nothing for families currently struggling with the cost of educating their children. It will benefit only a few wealthy families with income available to save after meeting the costs of their children's education. The Joint Committee on Taxation's analysis indicates how small the benefit will be under this provision. It estimates that after 5 years the average family with children in public schools will receive an annual benefit of \$7 and the average family with children in private schools would receive an annual benefit of \$37.

The Committee bill is deficient in its failure to include meaningful school construction and modernization provisions. The Republicans have made two seemingly inconsistent arguments against bipartisan school construction and modernization legislation sponsored by Congressman Rangel and Congresswoman Nancy Johnson. First, they argue that public school construction and modernization is strictly a local responsibility. Then they argue that their bill has meaningful subsidies to assist state and local governments in meeting the cost of school construction. Those arguments are actually not inconsistent. The school construction provision in the Committee bill will do nothing for school districts with students in trailers or in unsafe school buildings. The Committee bill provi-

sion modifies the current law arbitrage rules and provides tax benefits to school districts that are able to delay school construction and renovation for more than 2 years. The longer those districts delay school construction, the greater the benefit they would receive under the Committee bill. It is difficult to conceive of a proposal that is less responsive to the real need that exists.

*Benefits limited to families with wealth*

We recognize that opposing a proposal advertised as promoting school choice is not an easy vote for some Members. Those Members should examine the substance of the Committee bill. If the Committee bill promotes school choice, it does so only for a small category of wealthy families.

1. The only families who would benefit from the legislation are families with sufficient investment assets to enable them to accumulate income on those assets over a long period of time. *Families paying educational expenses out of wage and salary income would receive no benefit under the Committee bill—no matter where those children were schooled.*

2. *Families with school-age children would receive little benefit.* If a family currently has a child in private school, that family would receive the full benefit of the Committee bill only if it could contribute \$2,000 to an investment account after paying the current-year costs of the private school. With private-school costs averaging over \$3,000 per year, only a few very fortunate families could afford to make such a contribution. In addition, the Committee bill would provide substantial benefits only if the money were allowed to accumulate in the account over a period of years. *Therefore, even the few fortunate families able to save for next year's tuition costs would receive little benefit.*

3. To receive the maximum benefit, a family would need to have both young children (so that there is time to accumulate income in the account) and substantial investment assets. The following table indicates that few families meet the second requirement. The table is based on data collected by the Federal Reserve Board in its 1998 Survey of Consumer Finances. It shows the median amount of non-retirement investment assets held by families in various income categories. Non-retirement investment assets include checking accounts, savings accounts, and all other financial assets not held in a retirement plan. *Not surprisingly, it shows that young families and families with children have relatively small amounts of non-retirement investment assets.*

Income category	Percent of families in income category	Median amount of non-retirement investment assets		Families with children under 18 years of age
		All families	Families headed by individual under 35 years of age	
Less than \$10,000 .....	12.9	\$300	\$400	\$100
\$10,000 to 20,000 .....	16.4	1,800	510	400
\$20,000 to 30,000 .....	15.5	4,330	950	1,200
\$30,000 to 40,000 .....	12.6	6,520	1,800	2,690
\$40,000 to 50,000 .....	9.1	9,500	4,100	4,600
\$50,000 to 75,000 .....	17.4	17,000	7,750	11,820
\$75,000 to 100,000 .....	7.6	31,850	13,900	24,000
\$100,000 to 200,000 .....	6.1	96,630	49,300	83,000

Income category	Percent of families in income category	Median amount of non-retirement investment assets		Families with children under 18 years of age
		All families	Families headed by individual under 35 years of age	
Over \$200,000 .....	2.3	520,000	78,050	372,500

We believe that the table above amply demonstrates which families will benefit from the Committee bill. The amount of non-retirement investment assets is a very good measure of a family's ability to take advantage of the Committee bill. Without those assets, a family would have to save out of current-year wages \$2,000 per year, per child to take full advantage. We all know how few families can afford to do this.

*Administerability*

From a technical standpoint, the Committee bill is so flawed that it is an embarrassment. The committee bill is based largely on a Senate Floor amendment that was offered by Senator Coverdell during the consideration of the recently enacted Taxpayer Relief Act of 1997. Like many Senate Floor amendments, Senator Coverdell's amendment appears to have been developed with some haste, largely for political purposes, and with little regard to whether it actually could be administered. Notwithstanding the fact that almost three years have passed since the original consideration of Senator Coverdell's amendment, that still is an accurate characterization of the bill reported by the Committee.

The Committee bill would permit taxpayers to contribute \$2,000 per year, per beneficiary to education savings accounts. Income from assets in those accounts would accumulate on a tax-free basis and that income would be exempt from tax if used to pay qualified elementary and secondary education expenses of the designated beneficiary. The bill defines qualified expenses as being (1) expenses for tuition, fees, academic tutoring, special needs services, books, supplies, computer equipment (including related software and services) and other equipment, incurred in connection with the enrollment or attendance of a child at an elementary or secondary school, and (2) expenses for room and board, uniforms, transportation, and supplementary items and services required or provided by an elementary or secondary school in connection with enrollment or attendance at such school. The bill provides no hint as to how the Internal Revenue Service is to administer such a provision or what specifically is included in the broad definition of qualified expenses. The technical flaws of the bill were convincingly demonstrated during the Committee markup.

The Committee bill appears to provide a long list of potentially tax deductible Christmas presents for the children of wealthy families, including computers, computer software (hopefully not including games), books, educational videos, backpacks, art supplies, athletic equipment, and many other items. A parent could realize tax benefits by paying one child to tutor another child as long as the parent contends that the tutoring is academic. Even after 3 years of working on the bill, the issue of whether taxicabs or other trans-

portation expenses are covered could not be explained by the staff during the Committee markup.

The bill purports to limit the availability of education savings accounts to taxpayers with annual incomes of less than \$95,000 (\$160,000 for joint returns). However, a wealthy taxpayer easily could avoid this limitation through the simple expedient of making a gift to the taxpayer's child, who would then make the contribution to the education savings account. In a prior markup, the staff of the Joint Committee responded that the bill would permit such an avoidance technique as long as the child earned less than \$95,000. In a classic understatement that created laughter in the audience, the staff described the bill's income limitation as being "porous."

#### *Bipartisan School Construction Alternative*

We believe that we cannot expect our children to learn or our teachers to effectively teach unless they are provided with a safe and modern school building. Forcing students to go to school in trailers or dilapidated school buildings is a clear message to them that they and their education do not matter.

Currently, our public school system has extraordinary unmet needs for funds to construct and modernize schools. New estimates, based on data collected by the State Departments of Education, indicate that more than \$300 billion will be needed to repair or replace existing public school facilities and to construct new schools for the so-called "baby boom echo" effect. That \$300 billion need cannot be met without a significant commitment of funds from all levels of government, including the Federal government.

Congressman Rangel and Congresswoman Nancy Johnson, working together, have developed bipartisan legislation that would make a meaningful down payment for school construction and modernization. Their proposal would provide \$24.8 billion in interest-free funds over the next two years for school construction and renovation projects.

The bipartisan school construction proposal would in no way impede on local control of the public school system. All decisions regarding what schools to build or renovate would be left to local school districts. The Federal contribution under the proposal would be provided under procedures similar to those utilized in providing the current law tax-exempt bond subsidy. The Federal role in the proposal would be limited to making an initial allocation of the volume limitations among the States.

The bipartisan compromise is a cost-effective approach that would leverage nearly \$25 billion in school repairs and new construction, while avoiding the creation of any new level of bureaucracy. The cost of the bipartisan compromise is less than the cost of the Coverdell provisions and the meaningless school construction proposal contained in the Committee bill.

It is our hope that the bipartisan compromise will be made in order when the Committee bill is considered on the Floor. Adopting the bipartisan compromise, would be a first step in enacting bipartisan legislation to expand educational opportunities.

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