

1 EXECUTIVE COMMITTEE MEETING

2 WEDNESDAY, MAY 19, 1999

3 U.S. Senate,

4 Committee on Finance,

5 Washington, DC.

6 The meeting was convened, pursuant to notice, at
7 10:37 a.m., in room SD-215, Dirksen Senate Office
8 Building, Hon. William V. Roth, Jr. (chairman of the
9 committee) presiding.

10 Also present: Senators Chafee, Grassley, Hatch,
11 Murkowski, Nickles, Gramm, Lott, Jeffords, Mack,
12 Thompson, Baucus, Breaux, Conrad, Graham, Bryan, and
13 Robb.

14 Also present: Franklin G. Polk, Staff Director and
15 Chief Counsel; Mark A. Patterson, Minority Staff Director
16 and Chief Counsel.

17 Also present: Donald Lubick, Assistant Secretary for
18 Tax Policy, Treasury Department; Lindy Paull, Chief of
19 Staff, Joint Tax Committee; Mark Prater, Chief Tax
20 Counsel; Jeff Kupfer, Professional Staff Member.

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1 OPENING STATEMENT OF HON. WILLIAM V. ROTH, JR.,
2 A U.S. SENATOR FROM DELAWARE, CHAIRMAN, COMMITTEE ON
3 FINANCE
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5 The Chairman. The committee will please be in
6 order. Good morning. Today, we will mark up an original
7 bill, the Affordable Education Act of 1999. And I
8 believe that every member of the committee recognizes the
9 tremendous burden that American families face when it
10 comes to affording a quality education. And I believe
11 that we have a responsibility to help American families
12 with these high costs.

13 My mark includes a number of provisions that will be
14 of enormous benefit to families across the country. The
15 mark enhances the attractiveness of the Education IRA,
16 makes distribution from college savings and tuition plans
17 tax free, extends tax-free treatment for employer-
18 provided educational assistance, and removes the
19 limitation on the deductibility of student loan interest.

20 These provisions have bipartisan support. And it is
21 worth noting that the last two were included in this
22 year's administration budget.

23 The mark also includes a package of provisions
24 designed to help localities with the construction and
25 renovation of their public schools. The package keeps

1 control of this issue at the local level where I firmly
2 believe it should be and also works within the existing
3 framework of tax-exempt bonds.

4 The mark is fully paid for. And it is funded by
5 offsets that I believe are noncontroversial and sound tax
6 policy. I believe today is the first step towards the
7 enactment of an important and much needed bill. I hope
8 that it will gather the strong bipartisan support that it
9 deserves.

10 I am sorry that our good friend and colleague Senator
11 Moynihan could not be with us, but I am very pleased to
12 turn to Senator Baucus.

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1 OPENING STATEMENT OF HON. MAX BAUCUS, A U.S. SENATOR FROM
2 MONTANA

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4 Senator Baucus. Thank you, Mr. Chairman. Mr.
5 Chairman, I appreciate you giving us the opportunity to
6 discuss education issues today. Many of the provisions
7 of this bill are good. The provision extending the
8 exclusion for employer-provided education, Section 127 is
9 one. It will continue to help our workers stay at the
10 cutting edge of technological change.

11 As you know, Mr. Chairman, this provision is
12 particularly of interest to Senator Moynihan who
13 regrettably could not make today's mark-up. He is in New
14 York I think with the President in dedicating a
15 renovation of Penn Station, something that he has been
16 very involved with. And frankly, we are very proud of
17 his efforts in helping to renovate Penn Station.

18 I would also add that the provisions eliminating the
19 60-month limitation for the reduction of student loan
20 interest payments will help students who graduate from
21 college who are having difficulty paying off their
22 student loans because of income levels.

23 And I might say, Mr. Chairman, when I am talking at
24 school campuses, this one gets more applause than most
25 any other. A lot of kids feel that it is unfair to be

1 saddled with an additional burden of additional interest
2 payments on top of the loan that they borrowed and paid.

3 At Montana State University where I gave a
4 commencement address last weekend, I learned that 83
5 percent of all students there are in some form of
6 financial aid -- 83 percent. There is a huge issue in my
7 State. And this provision I think will go a long way.

8 The provision relating to the tax treatment of State
9 prepaid tuition plans is important to parents and also to
10 students who are trying to budget for the increase in the
11 cost of higher education.

12 The section relating to tax treatment of National
13 Health Corps scholarships is particularly important for
14 students who agree to serve in medically under-served
15 areas, such as inner cities or Indian reservations like
16 those that we have in many States in the west.

17 As I said, you have many good provisions in this
18 bill. And I applaud you for including them. However, I
19 regret that we have missed out on an opportunity to make
20 a real difference to the thousands of kids in our country
21 by not including any substantive relief for school
22 construction and rehabilitation.

23 We will soon be discussing an amendment to remedy
24 that oversight. And I hope that the committee will be
25 sympathetic to those needs, the needs of our school

1 districts because it is something that is very critical.

2 I also regret that we again are placing all the good,
3 noncontroversial provisions in the bill at risk by
4 including the Coverdell provisions in this bill. I
5 understand that these provisions represent a difference
6 of philosophy among various members of our committee. I
7 regret that they are being lumped together. And I think
8 it is going to cause a problem. They are going to
9 prevent the enactment, I think the potential enactment of
10 many educational enhancements that we do agree upon.

11 I say that because the President vetoed this bill the
12 last session because of the Coverdell language. And his
13 advisors are recommending he do so again if the bill
14 reaches his desk in its present form.

15 So we find ourselves making a critical statement with
16 this rather than making a positive difference for our
17 kids and for our schools. I regret this bill does not
18 include incentives to encourage companies to donate
19 computers to schools. And I intend to speak to that at a
20 later time. Thank you, Mr. Chairman.

21 The Chairman. Thank you, Senator Baucus. Since my
22 mark was released last Monday, I have made very few
23 modifications.

24 And I will call on Mark Prater to spell out the
25 differences.

1 Mr. Prater. Thank you, Mr. Chairman. The mark is
2 modified in three ways. The first way is that the
3 coordination between the HOPE scholarship credit/Lifetime
4 Learning Credit and prepaid plans is effective under the
5 mark. And the current provision in the mark with respect
6 to the coordination of the Education IRA and the HOPE
7 scholarship and Lifetime Learning Credits is also
8 continued, but both because of revenue constraints are
9 sunsetted at the end of the year 2003.

10 The third modification is an extension of the tax-
11 free treatment of employer-provided educational
12 assistance for graduates and under graduates for a period
13 of 6 months. So that extension will now be effective
14 through June 30, 2004.

15 The Chairman. Thank you, Mark.

16 Are there any questions with respect to the mark?

17 Senator Chafee. Mr. Chairman.

18 The Chairman. Yes, Senator Chafee?

19 Senator Chafee. Mr. Chairman, I do not have a
20 question in connection with that. I just want to make a
21 statement if I might, if this is the proper time, in
22 connection with the expanded annual deductible
23 contributions. Included with that is not just that you
24 raise it from 500 to 2,000 and then it goes currently to
25 college education, you changed that elementary and

1 secondary education expense.

2 And I am opposed to that. I think it is taking money
3 that should be going to the public schools and instead
4 permitting those who are already sending their children
5 to private schools to have this tax-free income.

6 And I know there is a phase-out, but the phase-out
7 does not start until \$150,000 for a joint return. So
8 that is a pretty lush phase-out. And Mr. Chairman, I am
9 opposed to that provision in there, the expansion that
10 you provided.

11 Senator Robb. Mr. Chairman.

12 The Chairman. Yes, Senator Robb?

13 Senator Robb. I have an amendment that would
14 address the concerns raised by the Senator from Rhode
15 Island if it would be appropriate to offer it, but I will
16 wait until --

17 The Chairman. Well, it was my intent to ask whether
18 there were any amendments at this stage. So it would be
19 appropriate for you to proceed.

20 Senator Robb. Thank you, Mr. Chairman. Let me say
21 that I agree with the sentiments expressed by Senator
22 Chafee. And Senator Conrad and I have an amendment on
23 school construction that I would like to offer at this
24 time.

25 I think the committee is familiar with it. The only

1 difficulty I have at this point, because of the
2 modifications of the chairman, are offsets and the new
3 mark are not in complete agreement. The offsets that we
4 have are all not used by other bills that have already
5 been considered by Congress, but the slight increase in
6 the second period will require some modest revision.

7 And I would like to suggest, in the absence of the
8 ability to run the numbers in the last 10 or 15 minutes
9 since we found out about the modification in our little
10 pre-meeting, to making whatever adjustments are necessary
11 and find a tweak for the offset that would cover that
12 particular increase.

13 But the bottom line, Mr. Chairman, is that this would
14 take the funds that are currently designated for the
15 Education IRA and put them in the school construction.
16 Or those that are available currently, the actual benefit
17 by the plan that is in the mark at this point will
18 provide something around an average over the 5-year
19 period of about \$5 per public school student per year
20 which would be less than the amount that would require
21 them to buy lunch for that particular week.

22 In the private school domain, there would be more
23 benefit, but it is only in the high 30s in terms of an
24 average basis. This would take those dollars and
25 leverage them in such a way that we could get almost \$25

1 billion over the 5 years in terms of school construction
2 by in effect the Federal Government paying the interest
3 on the bonded indebtedness that the schools would enter
4 into for school construction purposes.

5 It also would not extend the period that the building
6 must not commence to four years. But frankly, Mr.
7 Chairman, I believe that would be a disincentive to going
8 ahead and getting the job done. So it would keep it at
9 the 2-year period that we have included.

10 This particular proposal is endorsed by a wide
11 variety of groups. I will not read all of them. I would
12 like permission to submit for the record all of the
13 groups that have contacted Senator Conrad and myself on
14 behalf of this particular amendment, but it represents
15 virtually the whole education establishment and many who
16 have an interest in addressing the problem, again raised
17 by Senator Chafee, that the monies instead of becoming a
18 benefit, it would disproportionately benefit those who
19 already have their children in private schools and on
20 average have a higher income. It would be targeted
21 directly to the 90 percent of the children who are
22 currently enrolled in public schools and where many of us
23 feel our principal obligation lies.

24 With that, I will be happy to yield to my co-sponsor,
25 Senator Conrad, to discuss any aspects of the legislation

1 that he might choose to discuss.

2 [The information submitted by Senator Robb appears in
3 the appendix.]

4 The Chairman. Senator Conrad?

5 Senator Conrad. Mr. Chairman and colleagues, I
6 believe this is a critically important amendment to the
7 country. The General Accounting Office tells us we need
8 a \$112 billion investment to bring the Nation's schools
9 up to standard -- \$112 billion. We do not have the
10 funding for that any place.

11 And if there is one thing that is clear is there is a
12 crisis in schools in America today. The average school
13 today is 42 years old. And we know the expenses of
14 schools because of the need for repair increases
15 dramatically once you get beyond 40 years.

16 So this is an attempt to deal with that crisis, to
17 provide some assistance so that States can have bonds,
18 that those bonds can be used for school construction and
19 repair.

20 Mr. Chairman, I can tell you in my own State, it is
21 very dramatic. I have been to school after school that
22 is in desperate need of repair or replacement.

23 The estimates are that this would provide for the
24 construction of 6,000 new schools. And as America grows,
25 it desperately needs additional school facilities. And

1 there is an absence of resources in the country to
2 provide for those facilities. So the idea here is to
3 provide bonds and instead of interest payments that those
4 who buy the bonds would be paid through tax credits.

5 This is, as Senator Robb indicated, broadly endorsed.
6 We have endorsement from the National Education
7 Association, the American Federation of Teachers, the
8 organizations concerned about rural education, the
9 National Parent/Teacher Association, the National
10 Association of Elementary School Principals, the National
11 Association of Federally Impacted Schools, the National
12 Association for Bilingual Education, the National
13 Association of Secondary School Principals, the American
14 Association of School Administrators, the California
15 Federal School Infrastructure Coalition, the American
16 Institute of Architects, the United Methodist Church, the
17 Council of Chief State School Officers, the New York City
18 Board of Education, the National School Boards
19 Association, the National Association of School
20 Psychologists, the New York State Education Department,
21 and many, many others.

22 Mr. Chairman, this bill is paid for. It is paid for
23 through a number of offsets that have been outlined by
24 Senator Robb, but which we think are reasonable,
25 including the exclusion from the chairman's mark of the

1 Coverdell legislation, correcting a drafting error on the
2 Taxpayer Relief Act of 1997 which resulted in an
3 inadvertent reduction in the estate tax for States in
4 excess of \$17 million, two administration tax accounting
5 revenue proposals.

6 Mr. Chairman, I hope our colleagues would support
7 this amendment. It has very broad support, very strongly
8 supported by people across the United States who see that
9 there is a need, a very dramatic need to repair schools,
10 to replace schools, to rebuild schools. And that is what
11 this legislation would provide.

12 I indicated there is a need for \$112 billion of
13 work -- \$112 billion. That is what the GAO tells us
14 across the country. This does not solve the problem, but
15 it is a significant start. It would provide for \$25
16 billion in bonds. And as I have indicated, it is paid
17 for. Thank you, Mr. Chairman.

18 The Chairman. Thank you, Senator Conrad.

19 Yes, the Senator from Oklahoma?

20 Senator Nickles. Mr. Chairman, just briefly. With
21 all due respect to my colleagues, I think this is a
22 terrible proposal. Correct me if I am wrong.

23 Senator Conrad. But can you support it?

24 [Laughter.]

25 Senator Nickles. You can please correct me. Please

1 tell me I am wrong. Tell me I am not reading what is in
2 front of me. Tell me that we are not saying that the
3 bond holders will receive tax credits instead of interest
4 payments. I think that is a serious mistake. I know
5 other people have talked about it, but I think that is a
6 mistake.

7 You are going to say whoever happens to hold these
8 are going to get tax credits. Everybody else is going to
9 get interest. I think that is a mistake. Is this
10 allocated by need?

11 You mentioned the GAO said there is a need of several
12 times this amount. Which States are going to qualify? I
13 think that is a mistake.

14 And also, I want to just take a little look at what
15 is paid for. You eliminate the Education IRA which will
16 benefit anybody that wants to save for education. You
17 want to increase the State taxes.

18 And granted, I heard you say it is on the wealthier
19 States where the State tax rates on the wealthier States
20 are 55 percent, but we do not want them to have the
21 unified credit which is \$750,000. We still want them to
22 pay 55 percent and have no credit whatsoever. I do not
23 think that is right. I do not think it is right in any
24 way, some accounting changes, and other things.

25 Mr. Chairman, I think it is a serious mistake. And I

1 would urge my colleagues to vote no.

2 The Chairman. Senator Gramm?

3 Senator Gramm. Well, Mr. Chairman, I think this is
4 an important amendment because I think it really defines
5 the difference between the two parties. The Coverdell
6 amendment is trying to empower working families to spend
7 their money on their children, to exercise choices to
8 expand their freedom, believing that they are better
9 capable than we are or more capable than we are of
10 deciding what is in the interest of their children and
11 recognizing that the very levels of government that the
12 amendment offered by Senator Robb are failing their
13 children.

14 And that is fine with truly rich people who do not
15 have any trouble sending their children to private
16 schools or getting tutors or paying for summer courses,
17 but the problem is that many working Americans, taxpayers
18 are trapped in these failing schools.

19 The Coverdell amendment is a new approach. It is not
20 supported by the educational establishment. It is
21 opposed by the educational establishment because it
22 threatens them. And it ought to threaten them because
23 they are doing a very poor job. They are failing the
24 children of this country. Not literally failing them,
25 they are not failing anybody. They are passing

1 everybody, but they are failing them by not teaching them
2 anything.

3 Now, the alternative here is to take money away from
4 these working families and spend it on bricks and
5 concrete. Now, it seems to me it is a peculiar thing to
6 be saying that bricks and concrete where the expenditure
7 is exercised by government is more important than
8 expenditures on children where the expenditure is
9 exercised by their parents. And I think this is a pretty
10 clear choice and a very easy one for me.

11 I would like to make just a couple of other points.
12 First of all, our colleagues are now not content with
13 spending Federal money, they want to spend Federal money
14 to induce States to spend State money. I do not
15 understand why they do not all resign and go run for the
16 State legislature so they can vote on school funding.

17 The plain truth is virtually every State in the union
18 has a big surplus. Virtually, every State in the union
19 is cutting taxes. And I rejoice in it. But the point is
20 when we are faced with a Medicare crisis, when we are
21 faced with a Social Security crisis, and when working
22 people have the highest tax burden in American history,
23 why should we be subsidizing States to do what States are
24 supposed to do?

25 And finally, this old song, well, we are raising the

1 inheritance tax, but these are only rich people. Well,
2 whether they are rich or whether they are not, somebody
3 worked like hell to build that estate up. I do not think
4 there ought to be estate taxes. I think it is
5 outrageous.

6 If people work a lifetime and some of them succeed, I
7 know that is deeply resented by some people, but some of
8 them succeed and they build up estates. And then, when
9 they die and try to pass the farm or they try to pass the
10 business to their children, they end up having to sell
11 the farm or sell the business to give the government
12 \$0.55 out of every dollar they build up during their
13 lifetime, almost all of it with after-tax earnings.

14 And I think it is just outrageous that we cavalierly
15 say, okay, we are going to steal 55 percent of their life
16 work, but it is okay. And why is it okay? Were they bad
17 people? Had they gotten money by ill-gotten gains? No.
18 It is okay because they are rich. If they are rich, they
19 do not have any rights. If they are rich, if they
20 succeeded in America, somehow, something is so wrong that
21 we have to come in and take their money. Well, I just
22 think it is outrageous. And people ought to be
23 embarrassed about it.

24 So I trust we will reject this amendment. If we do
25 not, we will end up not passing this bill.

1 Senator Grassley. Mr. Chairman.

2 The Chairman. Senator Grassley and then Senator
3 Conrad.

4 Senator Grassley. You have just heard the
5 ideological reason for being against the amendment. I
6 want to give you a practical reason for being against the
7 amendment. And that is that it just builds on a program
8 that is inherently unworkable and inefficient. It builds
9 on a program that has not worked well, the Qualified Zone
10 Activity Bonds.

11 The school districts and States all across this land
12 need greater flexibility, not more Federal regulations
13 and control. And under the QZAB Program, as it is
14 called, schools are mired in red tape and bureaucracy
15 where the Education Department is involved in what has
16 been local decision-making. And this is just not good
17 policy.

18 The QZAB Program has proven incapable of attracting
19 investors due to inherent flaws and tax credit bonds that
20 make them extremely ill liquid and unpredictable
21 investments. There are also specific limitations on the
22 use of these bonds imposed by the Federal Government on
23 States. There are also significant limitations on new
24 school construction. We only had a few QZABs issued in
25 the last year or so compared to the thousands of tax-

1 exempt bonds.

2 And if the sophisticated bankers and other financial
3 institutions do not want to invest in them, what makes
4 the sponsors of this amendment think that individual
5 citizens will? Experience and study has shown that tax-
6 exempt bonds are more workable, more efficient, and a
7 more popular alternative to QZABs.

8 The chairman's mark in my judgment will do a better
9 job of providing schools with necessary capital to build
10 and rehabilitate our Nation's schools.

11 Senator Gramm of Florida and my proposal in the mark
12 have broad support: the National Association of Cities
13 and Counties, the National Association of Mayors, and
14 many other State and local organizations who build our
15 schools.

16 Senator Conrad. Mr. Chairman.

17 The Chairman. Next I have Senator Conrad, then
18 Senator Robb, and then Senator Chafee.

19 Senator Conrad. First of all, in response to
20 Senator Gramm, I would say that the allocation of these
21 bonds is 65 percent of the bonds to the States based on
22 their Title I allocations. Thirty-five percent go
23 directly to the 100 school districts with the largest
24 number of low-income students. It is going where the
25 need is.

1 And if there is anything that is clear in this
2 country is there is a dramatic need for school
3 construction, school rehabilitation, and school
4 improvement. And that is where 90 percent of the kids in
5 this country are, in the public school system. They
6 deserve first call on these assets and these resources.
7 They deserve to go to school in a place that is ready for
8 the next century.

9 We are at a new age and a new dawning age of
10 information technology. And our schools are ill equipped
11 for it. And we have to put the resources in to preparing
12 our kids to compete in a tough world, competitive
13 environment.

14 Now, we can sit here and do not much of anything and
15 say, well, maybe somebody else will do it. Well, maybe
16 it is time for us to stand up and do something.

17 The Senator talks about the great benefits of the
18 Coverdell amendment. Let us get serious. This came from
19 the Joint Committee on Taxation. Here are the big
20 benefits of the Coverdell amendment. We estimate
21 according to the Joint Committee on Taxation that the
22 average benefit per child would be approximately \$3 in
23 taxable year 2001 -- \$3 -- \$3, in 2002, \$4.

24 Senator Gramm. Why are you opposed to it?

25 Senator Conrad. I did not interrupt you. It would

1 be nice to be able to give my remarks without being
2 interrupted, Senator.

3 Senator Lott. Get on with it.

4 Senator Conrad. I will if I am not interrupted.
5 And, guys, you do not want to hear the information? It
6 comes from the Joint Committee on Taxation.

7 The big benefit of Coverdell per student in 2002,
8 \$4.50. Well, that is going to make a difference to
9 working families.

10 But what will make a difference if we do something
11 about building the schools in this country that are
12 needed by the kids is rehabing the schools. And GAO
13 tells us there is a need for \$112 billion of work out
14 there. And when we see that the average life of a school
15 in this country right now is 42 years, it is time to act.

16 And this amendment is a chance to act and do
17 something significant. \$25 billion worth of work across
18 the country will be leveraged by this amendment. I think
19 it is time to act.

20 The Chairman. Next on the list, we have Senator
21 Robb.

22 Senator Robb. Thank you, Mr. Chairman. Senator
23 Conrad has covered some of the specifics. Let me say in
24 response to my friend from Texas, in terms of a basic and
25 fundamental difference in philosophy, I believe that is

1 exactly what we are dealing with here.

2 We are talking about whether or not we feel that we
3 ought to take fungible dollars, however many dollars that
4 happens to be and apply those dollars as best we can to
5 help the most students who are most likely to need
6 assistance in education.

7 And we have a choice here between providing dollars
8 for the 5 years of the program that vary on an average
9 per child basis, as Senator Conrad has just indicated,
10 from \$3 and some cents per year up through about \$7 per
11 year for those who are in the public school system. And
12 those in the private school system would get up to \$37 or
13 \$38. I believe it is on an annualized basis.

14 But the question is whether or not we provide that
15 small token that goes disproportionately to those who do
16 not have the greatest need or whether we take this same
17 fungible number of dollars, no matter how we actually
18 provide for it and make that available to targeted
19 schools in the amount of \$25 billion worth of average
20 over those 5 years. That is really the question
21 presented here.

22 Again, dollars are fungible. We can talk about
23 dollars coming in in one account and going out in
24 another, but the bottom line is if you have X number of
25 dollars you are going to devote for educational purposes,

1 this amendment suggests that we ought to devote them to a
2 means that will leverage the money and get even more and
3 actually bring about results.

4 My own State has \$4 billion according to the auditing
5 group within Virginia of unmet school needs at this
6 particular point. \$112 billion, this is only \$25
7 billion. It is less than a fourth of the total needed
8 over this period, but it is a step in the right
9 direction. Otherwise, we end up giving that same amount
10 of money to individuals who disproportionately do not
11 need it.

12 So, yes, we are trying to help those who are most in
13 need of assistance in getting an opportunity to
14 participate in American green because they have a better
15 chance at an education.

16 And there are statistics that indicate that if you
17 take out all of the environmental factors and
18 sociological factors that would otherwise impact, that
19 those who have educational opportunities provided in
20 schools that met current standards score better than
21 those who have to take their educations in schools,
22 bricks, mortar, whatever the case may be where they are
23 in less than adequate circumstances.

24 So we are trying to help those who are most in need
25 of help, the 90 percent of the students of this Nation

1 who do have a serious challenge in education. Thank you,
2 Mr. Chairman.

3 Senator Nickles. Mr. Chairman.

4 The Chairman. If I could, we have three on the list
5 to speak: Senator Chafee, Senator Baucus, and Connie
6 Mack. We have everyone here, except the ranking member
7 who as we know cannot make it. So I would like to
8 proceed to a vote at that time.

9 Senator Chafee?

10 Senator Chafee. Thank you, Mr. Chairman. I
11 appreciate the efforts here to address the problem I have
12 with the expansion of this bill into the Education IRAs
13 into the elementary and secondary students.

14 I must say the proposal that is before us it seems to
15 me requires more consideration than I have been able to
16 give it. I think we had a hearing on it last year, but
17 none this year if I am correct. And the expansion of the
18 Federal Government into local school construction is
19 certainly a big step and one we have talked about. I
20 have never supported it in the past. And I am just not
21 prepared to support it right now either, Mr. Chairman.

22 The Chairman. Thank you, Senator Chafee.

23 Senator Baucus?

24 Senator Baucus. Thank you, Mr. Chairman. I think
25 it is important for all of us to recognize the point that

1 Senator Conrad made. And I think all of us agree,
2 namely, with the rise of globalization. This country and
3 our kids deserve the greatest opportunity that we could
4 provide for them.

5 Education is local. There is local school districts,
6 school boards, teachers to decide what is best for the
7 schools. And we all know that a lot of schools are very
8 strapped financially. A lot of school districts are
9 strapped, but I think about 8 percent of the funding that
10 is spent on schools is Federal and the rest is local
11 support.

12 That is much different than any other industrial
13 country. In any other industrial country, there is much,
14 much less emphasis on the local community providing for
15 financial support for schools. There is much, much more
16 national support.

17 Now, I am not saying we should change that. I am
18 just saying we should recognize that and recognize that
19 local districts in many parts of our country cannot get
20 bonding authority partly because in some areas, seniors
21 are moving in or people who have retired earlier are
22 moving into that area. They do not want to raise taxes.
23 They do not want to pay for new schools. They have
24 theirs.

25 But I think we have an obligation as much as possible

1 to try to fairly and reasonably help our kids. And we
2 all know that if we are in a new school, if we were a
3 student at a rehabilitated school, it energizes you. It
4 makes you really excited about your school and the
5 potential, the possibility. It energizes the teachers
6 and the parents and the community. It gets them to just
7 thinking, too, about the new ideas and maybe hook up the
8 Internet more easily and more cheaply and what not.

9 Now, there have been interesting questions raised and
10 good questions raised by members of the committee. For
11 example, QZABs, why have they not worked so well and so
12 forth? And that is a good question. And whether we
13 should give tax credits is something that is not so
14 common.

15 Well, my sense is that, first of all, I know Senator
16 Conrad and others have been working with the bond
17 community to try to work out some of the details so these
18 are more available and do not have the limitations that
19 the QZABs have.

20 But more than that, there are lots of opportunities
21 for us to fix technical problems with the bill. There
22 are lots of opportunities to fix more than technical
23 problems with this amendment. And I think some of the
24 questions raised are valid questions, but I think the
25 overriding issue is the importance of helping our kids

1 and helping our schools.

2 And if I might take a little bit of the committee's
3 time here, I have a chart that I would like to show.
4 This is not directly on point.

5 I will be very quick, Senator, very quick.

6 These are examples of schools in Montana that are
7 just falling apart. And actually, if you could show the
8 chart with the converted shower room it is more or less a
9 corner. This is a shower room which is no longer a
10 shower. It is where the school counselor and the school
11 nurse work out of. Often, the sewage backs up into this
12 shower system, raw sewage in there.

13 And I do not want to take the committee's time by
14 showing all the photos of schools dilapidated and falling
15 apart, but this is a Montana school. Now, granted, it is
16 a school on an Indian reservation. And the Senator's
17 amendment only partly would address that problem.

18 I will offer an amendment, but not here because it is
19 not germane, but on the floor to address some help in the
20 rehabilitation and construction of schools on Indian
21 reservations because it is clear to us. And I do not
22 want to sound patronizing or marveling about it, but we
23 do not give proper assistance or help to schools on
24 Indian reservations that we should.

25 America is a country of mobility. It is a country of

1 opportunity. And my view very strongly and basically, as
2 suggested by the Senator from Virginia, is that we should
3 give all kids opportunity. And private school
4 construction in the Coverdell helps a certain upper
5 income class of kids. It does not help the rest of the
6 kids in America. We all know that is true. There is no
7 doubt in that.

8 The Senator from North Dakota got the analysis from
9 the Joint Committee on Taxation which shows how little it
10 really gives to the average, ordinary public school kids.

11 So all I am saying, Mr. Chairman, I urge the
12 committee to adopt this amendment. It is going in the
13 right direction, the fundamental direction of where this
14 country should move, that is helping our kids and helping
15 education. Sure, there are technical problems with it,
16 but let us work out the problems. Let us recognize the
17 greater need. And that is our kids.

18 The Chairman. I will now call on Senator Mack. And
19 then, I would like to proceed with a vote if we could.

20 Senator Mack, please?

21 Senator Mack. Thank you, Mr. Chairman. And it was
22 really not my intention to speak, but there was some
23 passion flowing here a few moments ago. And it kind of
24 triggered some thoughts in my mind that I would like to
25 share.

1 First of all, the States do have a surplus. It is
2 primarily the States' responsibility. I think there was
3 an indication I guess Federal assistance probably is
4 around 8 percent. This is, again, a very passionate
5 discussion about their children.

6 I guess there is no one here that does not have some
7 strong feelings about their children and their children's
8 future, but let me say to you the idea that somehow or
9 another that if we can spend this money on the school
10 building that we are going to improve education in
11 America is just misdirected.

12 And I want to share one experience with you. For
13 those of you who were traveling to the west coast, if you
14 get to Los Angeles, I would recommend to you that you go
15 and see the Marcus Garvey School in the riot area of Los
16 Angeles. For those of you who do not recognize the name
17 Marcus Garvey, the Marcus Garvey School is a private
18 school for African-American children.

19 If you drove by it, there probably is not a soul in
20 here that would put your child in that school. There was
21 not a blade of grass to be seen. It was run down. It
22 was clean. The size of the administrator's office was
23 probably 10 by 10. The furniture in that office was
24 probably 35 or 40 years old. The administrator answered
25 the phone himself when it rang. There was no secretary.

1 He asked one of the teachers to take us down and show
2 us where they were teaching the children. And we started
3 with children of the age of 2 years old. And the
4 teachers said to the children, show the Senator and Mrs.
5 Mack how you can say your ABCs.

6 And so about 8 little children sitting at a little
7 table went through their ABCs. And they said, now that
8 you have done it in English, do it in Spanish. And the
9 little children went through their ABCs in Spanish. And
10 then, they said, we will do it in Swahili. And they did
11 it in Swahili.

12 And we walked across to the other side of the room.
13 And there were 3 year-old children, not second and third
14 grade, 3 year-old children that were doing math problems.
15 And the teacher said to me, Senator, give the children a
16 math problem to do.

17 Now, I would suspect that you would have reacted the
18 same as I did, a problem like 3 plus 5 or 2 plus 2. They
19 said, no, no, no, give them a more difficult problem. So
20 I gave a number like 135 plus 238. That little 3 year-
21 old child stood there at the blackboard, a couple little
22 dots, wrote down a number, a couple little dots, wrote
23 down another number, a couple little dots, wrote down
24 another number, and got the answer right. The 4 year-old
25 children were reading at the second and third-grade

1 level.

2 To shorten the story, Amyon Palmer who was the
3 owner/principal/administrator of this school challenged
4 the best private school in Los Angeles, their 6th grade
5 against his 3rd grade in math and English. Do you know
6 who won? Amyon Palmer and the Marcus Garvey children.

7 So I think we are focusing attention in the wrong
8 area here. Their answer every time I asked them why this
9 was successful was that it was because of the teacher,
10 not the building.

11 The Chairman. Senator Murkowski did not have a
12 chance to speak, but then I would like to proceed with
13 the vote.

14 Senator Murkowski. We have had experience in Alaska
15 relative to the native population. Twenty percent of our
16 population is indigenous native. We had a litigation,
17 the Molly Hootch case. And it dictated that the State
18 had the obligation to provide education for the children
19 in the State. As a consequence, the State dropped the
20 BIA Program. We have no BIA schools in Alaska anymore.
21 The BIA did a poor job.

22 The State went out and built 165 schools in virtually
23 every village down to if there are 15 children. Now, we
24 undertook that responsibility. And we did the right
25 thing. We had the obligation as a State.

1 And the Bureau of Indian Affairs, as I am concerned,
2 has just contributed to making wards of the Federal
3 Government of our native people. And I am very critical
4 of that program. So I would encourage for those that are
5 looking at obligations for education to recognize it is a
6 State's obligation. Thank you, Mr. Chairman.

7 The Chairman. Thank you.

8 We will now proceed with the vote.

9 Senator Nickles. Mr. Chairman.

10 The Chairman. No, several have wanted to and --

11 Senator Nickles. I am not even going to make a
12 statement. I am just going to ask the staff a quick
13 question. If they are increasing the State rates, what
14 would the marginal rate be on the States above \$17
15 million?

16 Ms. Paull. The top marginal rate will be 60
17 percent.

18 Senator Nickles. So the increase as a result of the
19 amendment, the State tax rate would go from 55 percent to
20 60 percent?

21 Ms. Paull. Correct.

22 Senator Nickles. Beginning with States --

23 Ms. Paull. Or I should say under current law.
24 There are some States that have a 60-percent marginal
25 rate. This would extend it further.

1 Senator Nickles. Thank you.

2 Senator Conrad. Mr. Chairman, I would just like to
3 say in response to my colleague from Oklahoma, this is to
4 correct a typographical error. This was not something
5 Congress intended to do. It was a mistake. And it is
6 intended just to correct the mistake.

7 Senator Nickles. Expand the mistake.

8 Senator Conrad. Correct the mistake.

9 Senator Nickles. You are raising taxes.

10 Senator Conrad. You are correcting a mistake that
11 was never intended by Congress.

12 The Chairman. It is time to have a vote. We are
13 voting on the Robb-Conrad amendment. The Clerk will call
14 the roll.

15 The Clerk. Mr. Chafee.

16 Senator Chafee. No.

17 The Clerk. Mr. Grassley.

18 Senator Grassley. No.

19 The Clerk. Mr. Hatch.

20 Senator Hatch. No.

21 The Clerk. Mr. Murkowski.

22 Senator Murkowski. No.

23 The Clerk. Mr. Nickles.

24 Senator Nickles. No.

25 The Clerk. Mr. Gramm of Texas.

1 Senator Gramm. No.
2 The Clerk. Mr. Lott.
3 Senator Lott. No.
4 The Clerk. Mr. Jeffords.
5 Senator Jeffords. No.
6 The Clerk. Mr. Mack.
7 Senator Mack. No.
8 The Clerk. Mr. Thompson.
9 Senator Thompson. No.
10 The Clerk. Mr. Moynihan.
11 Senator Baucus. Aye, by proxy.
12 The Clerk. Mr. Baucus.
13 Senator Baucus. Aye.
14 The Clerk. Mr. Rockefeller.
15 Senator Baucus. Aye, by proxy.
16 The Clerk. Mr. Breaux.
17 Senator Breaux. No.
18 The Clerk. Mr. Conrad.
19 Senator Conrad. Aye.
20 The Clerk. Mr. Graham of Florida.
21 Senator Graham. Aye.
22 The Clerk. Mr. Bryan.
23 Senator Bryan. Aye.
24 The Clerk. Mr. Kerrey.
25 Senator Baucus. Aye, by proxy.

1 The Clerk. Mr. Robb.

2 Senator Robb. Aye.

3 The Clerk. Mr. Chairman.

4 The Chairman. No.

5 The Clerk. The votes are 8 ayes, 12 nays.

6 The Chairman. The amendment is agreed to.

7 Now, we have a full house here with a number of the
8 members of the committee. One is managing on the floor.
9 And we have several who are in committee meetings. So I
10 would like --

11 Senator Baucus. Mr. Chairman.

12 The Chairman. Yes.

13 Senator Baucus. I have an amendment which I was
14 going to offer. I will not offer it, but if I could just
15 very briefly mention it. Then, we can go I think to
16 final passage. It will not take long at all.

17 Essentially, under current law, a company can donate
18 a computer under the enhanced computer deduction and
19 receive an amount of the deduction, half the difference
20 between the basis and the fair market value. There is a
21 limitation that is also provided for.

22 The amendment that I was to offer, and I will reserve
23 the right to offer it on the floor, would increase and
24 simplify that deduction. It will increase it by raising
25 it to 90 percent of the difference between basis and fair

1 market value, but eliminate the limitation which is twice
2 the basis.

3 This I think will help a lot in helping our schools.
4 I have spent a lot of time in my State talking to schools
5 and trying to find out what their needs are. And one of
6 the big needs is computers in classrooms. Some have
7 them. Some schools have a lot of computers, but many do
8 not.

9 And let me just give you an example of how this would
10 work. Under current law, the basis is \$100 and the fair
11 market value is \$150. Then, the tax savings would be
12 \$44. In my amendment, the tax savings would be \$6 more.
13 It would just be \$50.

14 I think we need to help our schools. And I and my
15 office, for whatever it is worth, once a week have a
16 computer chat with a high school or an elementary class
17 in my State in Montana for about a half hour or 45
18 minutes. It is a video as well as using the keyboard.
19 And I have found that often the computer at the other end
20 crashes. It just does not work. And these are schools
21 that have maybe 386 processors. It is just low-quality
22 computers. It is the best they have or can hook up very
23 well to the Internet or what not.

24 This is along the lines of the amendment that Senator
25 Robb from Virginia was talking about. He mentioned

1 school construction. I am just trying to help with the
2 computers and be paid for by eliminating the provisions
3 in the current bill which would say that the Education
4 IRA account could be used for room, board, and tuition.
5 And the effect of that is to level the playing field so
6 that the private school and public school kids would get
7 the same benefit.

8 I am not going to offer that amendment. I am going
9 to raise it on the floor.

10 The Chairman. Thank you, Senator Baucus. There
11 have been discussions on this. And I recognize you
12 reserve the right to raise it on the floor.

13 At this time, I would like to call for the vote on
14 reporting out the legislation. The Clerk will call the
15 roll.

16 The Clerk. Mr. Chafee.

17 Senator Chafee. No.

18 The Clerk. Mr. Grassley.

19 Senator Grassley. Aye.

20 The Clerk. Mr. Hatch.

21 Senator Hatch. Aye.

22 The Clerk. Mr. Murkowski.

23 Senator Murkowski. Aye.

24 The Clerk. Mr. Nickles.

25 Senator Nickles. Aye.

1 The Clerk. Mr. Gramm of Texas.
2 Senator Gramm. Aye.
3 The Clerk. Mr. Lott.
4 Senator Lott. Aye.
5 The Clerk. Mr. Jeffords.
6 Senator Jeffords. No.
7 The Clerk. Mr. Mack.
8 Senator Mack. Aye.
9 The Clerk. Mr. Thompson.
10 Senator Thompson. Aye.
11 The Clerk. Mr. Moynihan.
12 Senator Baucus. No, by proxy.
13 The Clerk. Mr. Baucus.
14 Senator Baucus. No.
15 The Clerk. Mr. Rockefeller.
16 Senator Baucus. No, by proxy.
17 The Clerk. Mr. Breaux.
18 Senator Breaux. Aye.
19 The Clerk. Mr. Conrad.
20 Senator Conrad. No.
21 The Clerk. Mr. Graham of Florida.
22 Senator Graham. Aye.
23 The Clerk. Mr. Bryan.
24 Senator Baucus. No, by proxy.
25 The Clerk. Mr. Kerrey.

1 Senator Baucus. Aye, by proxy.

2 The Clerk. Mr. Robb.

3 Senator Robb. No.

4 The Clerk. Mr. Chairman.

5 The Chairman. Aye.

6 The Clerk. The votes are 12 ayes, 8 nays.

7 The Chairman. The legislation is reported out
8 favorably.

9 At this time, I thank everyone for their cooperation
10 and see you tomorrow.

11 [Whereupon, at 11:27 a.m., the meeting was
12 concluded.]

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**UNITED STATES SENATE
COMMITTEE ON FINANCE**

**Wednesday, May 19, 1999 -- 10:00 a.m.
SD-215 Dirksen Senate Office Building**

**OPEN EXECUTIVE SESSION
AGENDA**

I. The Affordable Education Act of 1999

The Chairman will rule out of order nongermane items (offered as a single amendment or as part of a larger amendment). Additionally, all amendments must be revenue neutral

Hatch

Statement of Senator Orrin G. Hatch
before the
Senate Committee on Finance
May 19, 1999

Markup of the Affordable Education Act of 1999

I would like to commend the Chairman for holding this markup today. The legislation before us is timely and important.

Everywhere I travel in my home state of Utah I meet with people and hear about the issues of concern to them. Education is always high on their lists. Poll after poll consistently shows that education is one of the top 3 concerns of American families. But, to be honest, my interest in education is particularly keen given that I want a top notch education for my grandchildren.

The bill before us contains provisions designed to help millions of American children obtain a quality education. One, the education savings account proposal provides parents and other family members a financial tool to help defray a number of education expenses such as lessons, computers, or alternate schools. This should not be measured as a loss to the government, but as a benefit to children. Two, the bill helps students deal with higher education costs by expanding the tax-free treatment of qualified state tuition programs such as the one in Utah; three, it allows employers to provide tax-free assistance to their employees who are expanding their education; and four, it makes the deduction for student loan interest more meaningful.

This bill also contains some important provisions relating to school construction. It would modify the restrictions on tax-exempt bond financing of these activities and expand the market for these bonds. A substantial number of Utah's schools were built at the turn of the century; these schools require constant attention to their physical plant. And, as we all know, deferred maintenance usually becomes more expensive maintenance. Utah spends \$350 million a year in school repairs, more than 90 percent of which comes from school district tax levies. This bill would ease this burden.

In addition, many states are faced with the need for new schools. Conservative estimates are that Utah is building 10-15 new school buildings a year. In the Jordan school district alone, 6 schools are currently under construction. In the Washington school district, which is a relatively small district, 3 schools are under construction.

Mr. Chairman, this bill would improve education and educational opportunity in our country in a number of key ways. It tackles education issues at both the state and district levels and provides educational opportunity for individuals. I support this legislation and urge my colleagues to do so as well.

Include in Committee transcript
Chuck Grassley

Affordable Ed Act

Mr. Chairman:

You are to be commended for putting this very pro-education bill before this committee. Even though the federal government plays a limited role in education compared to state and local governments, it is a very important role. And, it's a role that we want to make more effective and efficient.

I'm very encouraged that three of the proposals in the bill are measures I've been very involved with. I introduced legislation earlier this year along with Senator Baucus to eliminate the 60 month payment limitation for interest deductions on student loans. This builds on my decade-long effort to restore the student loan deduction. I thank the chairman for working with me to accomplish that.

The mark also includes two school construction measures that Senator Bob Graham and I have been pushing. These measures were included in a bill we introduced called the "School Construction Financing Improvement Act of 1999".

The single most important source of funding for investment in public school construction and rehabilitation is the tax-exempt bond market. Tax-exempt bonds finance

approximately 90 percent of the nation's investment in public schools. The proposal in the mark would mean close to \$30 million a year in extra school funding for the state of Iowa alone.

There is a well-recognized need throughout the country for billions of additional new dollars in school construction and rehabilitation. The GAO has estimated that 14 million children attend U.S. schools in need of extensive repairs, and about 7 million attend schools with life threatening safety code violations.

Tax-exempt bonds have proven to be an effective financial instrument to fund school rehabilitation and construction. Therefore, it's appropriate and necessary to examine tax code limitations on the use of tax-exempt bonds for schools and to consider ways to amend the code to give school districts even greater access to the capital they earnestly need and deserve. Let's expand on something that works.

One of the provisions in the mark would allow school districts to make use of public-private partnerships in issuing tax-exempt bonds for public school construction or rehabilitation. The bonds would

be exempt from the annual state volume caps. This will allow schools to leverage private investment in school facilities and would encourage school districts to partner with private investors in new and creative ways.

Another provision would also raise from \$10 million to \$15 million the volume of school construction bonds a small school district could issue each year and still qualify for the small-issuer arbitrage rebate exemption. This provision expands the benefits of the small-issuer rebate exemption to a much broader universe of small school bond issuers.

The other provisions of the mark are also of great importance and I thank the chairman for moving forward and urge my colleagues to support this effort.



N.A.A.
2079

SANDRA FELDMAN
PRESIDENT

EDWARD L. MEEHAN
SECRETARY

NATALIE O'NEILL
TREASURER

*Letters
supporting
Conrad/Robb
Amendment
5/19/99 Ed Mo*

Members
Committee on Finance
United States Senate
Washington, D.C. 20510

Dear Senator:

This week the Senate Finance Committee is expected to take up an education package that includes Senator Coverdell's "Education Savings Account and School Excellence Act." The American Federation of Teachers, on behalf of its more than one million members, strongly opposes this provision.

The Coverdell proposal would expand the existing education savings account plan for higher education to allow the tax-free proceeds of the accounts to be used for K-12 educational expenses, including tuition at private and religious schools. This proposal has been described as a "virtual voucher" and would simply undermine support of public education.

The Coverdell proposal is estimated to cost \$2.6 billion over 10 years, but would provide no benefits to most working families. The Treasury Department and the Joint Tax Committee both concluded that families earning under \$50,000 a year would not be able to afford an education savings account. The primary beneficiaries of the plan would be wealthy families with children in private schools. Despite the cost of the proposal, it would actually provide few tangible benefits for most families. For example, the Joint Tax Committee last year estimated that the tax benefit of such an account in the year 2002 would be \$7 for students in public schools and \$37 for students in private schools.

While the Coverdell proposal will do nothing to improve the public schools, which 90 percent of the nation's children attend, Senators Robb and Conrad will offer a substitute to establish a school construction and modernization bond program, which will help local communities to finance the repair, modernization, and construction of public schools. The Robb-Conrad substitute would generate over \$25 billion of school construction bonds by providing a tax credit that will subsidize the interest on those bonds. This \$25 billion will finance over 6,000 new or remodeled public schools.

Given the data demonstrating the efficacy of smaller class sizes, the projected increase of K-12 students over the next ten years and the deterioration of our existing school structures, the Robb-Conrad substitute is a prudent expenditure of scarce federal resources on education.

We urge you to support the Robb-Conrad substitute, oppose the Coverdell K-12 Savings Account, and vote against the entire package if it includes the Coverdell proposal.

Sincerely,

Jane Meroney
Acting Director of Federal Legislation
Office of Government Relations



NATIONAL EDUCATION ASSOCIATION

Robert L. Clark, President
Ray Weaver, Vice President
Deanna Van Bochel, Secretary Treasurer

Don Cunningham, Executive Director

1301 14th Street, N.W.
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GOVERNMENT RELATIONS
Mary Elizabeth Teasley, Director
202-822-7321 FAX: 202-822-7741

May 18, 1999

Dear Finance Committee Member:

On behalf of the National Education Association's (NEA) 2.4 million members, we would like to express our strong concerns regarding the Affordable Education Act. We strongly oppose provisions to permit tax-free withdrawals from education IRAs for K-12 private, religious, and home-school education expenses. NEA supports an amendment, to be offered by Senators Robb and Conrad, which would strike the IRA provision and fund tax credits for school modernization bonds.

NEA believes the proposed K-12 education IRA represents bad tax and education policy. The proposal would disproportionately benefit private school students. Although families with children in private school represent only 7 percent of families eligible for the education IRA, they would receive more than half (52%) the tax benefits. The proposal would also disproportionately benefit wealthier families. Almost 70 percent of the benefits would go to the wealthiest 20 percent of families. In addition, the average tax benefit to families with children in public schools would only be \$7. For families with children in private school, the average tax break would be \$37. Such a small benefit would not create any incentive for families to increase savings.

The proposed education IRA fails to address the real problems confronting our nation's schools. States and local schools face a \$112 billion cost to repair existing schools, and will need an additional \$73 billion to build new schools to accommodate record numbers of students. Overcrowded classrooms and structurally unfit schools impair student achievement and diminish student discipline and safety.

The Robb-Conrad amendment would refocus proposed funds to help meet these critical needs. The amendment would provide tax credits to subsidize interest costs on school construction bonds. The proposal would create no additional bureaucracy; state and local officials would make all decisions regarding school repair and construction. The proposal would cost the federal government \$3.1 billion over five years but would leverage \$25 billion in state and local school construction dollars.

The American public overwhelmingly supports a federal investment in public school modernization. A recent poll conducted by Republican pollster Frank Luntz on behalf of the Rebuild America Coalition found 82 percent of Americans, across all party affiliations and geographic regions, in favor of federal spending for school construction.

Affordable Education Act

May 18, 1999

Page 2

The school construction proposals in the Chairman's mark fall well short of the meaningful Robb-Conrad solution. In total, the Chairman's mark would provide schools with only \$211 million over five years, a small fraction of the necessary funds. In addition, only a limited number of schools would benefit from the private activity bond and arbitrage relief proposals in the Chairman's mark.

NEA urges your support for an education tax package providing real benefits to the majority of students in public schools. We urge you to reject any version of the Affordable Education Act that includes the K-12 education IRA proposal.

Sincerely,



Mary Elizabeth Teasley
Director of Government Relations



National PTA®

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May 18, 1999

Members of the U.S. Senate Finance Committee
Washington, D.C. 20510

Dear Senator:

The National PTA urges you to **SUPPORT** the school construction amendment Senators Robb and Conrad plan to offer to "The Affordable Education Act" when it is marked up Wednesday in your committee. The Robb/Conrad amendment would assist schools with construction projects they need to provide quality education to all students, and would eliminate the education savings account provisions that would drain public resources from public schools by allowing tax deductions to cover K-12 private and religious school tuition, homeschooling, and other education expenses for a limited number of families.

If the Robb/Conrad amendment fails, the National PTA **OPPOSES** "The Affordable Education Act."

The Robb/Conrad amendment authorizes a tax credit for desperately needed construction and renovation projects. The substitute would direct approximately \$3 billion to generate more than \$25 billion in state and local bonds to build and modernize public schools across the nation. By paying for the interest on nearly \$22 billion in state and local bonds, this initiative will help ensure that children across the nation will be able to learn in safe, modern, well-equipped schools and get the preparation they need to succeed in the 21st Century.

In contrast, the Coverdell proposal will mainly help wealthy families who already send their children to private schools. Public resources should be used to improve public schools, not benefit private schools. The Joint Committee on Taxation on May 17 released the cost estimate of Coverdell's proposal. His plan would cost more than \$2.6 billion over 10 years. Moreover, his education IRAs would sunset in 2003, not giving families enough time to let their tax-free earnings accumulate. Finally, the average annual tax benefit for students attending public schools would only be \$7 and \$37 for private school students.

Senator Coverdell's tax subsidy does nothing to raise academic standards for all children or provide safe learning environments for children. National PTA urges you to support the school construction amendment and oppose Sen. Coverdell's education tax subsidies.

Sincerely,

Shirley Igo
Vice President for Legislation

May 18, 1999

The Honorable Charles S. Robb
Senate Committee on Finance
154 Russell Senate Office Building
Washington, D.C. 20510



Dear Senator Robb:

On behalf of the 95,000 local school board members nationwide, NSBA urges you to strongly oppose the "Education IRA" provisions that are included in the "Affordable Education Act of 1999" scheduled for a mark-up this week. This provision that uses scarce public tax resources to provide a tax subsidy for tuition and fees at K-12 public, private, and religious schools is a wrong turn for our nation's schoolchildren. Instead, NSBA encourages you to channel those resources into programs that will directly benefit public schoolchildren.

Our nation's public schools face significant challenges—record enrollments, more children in poverty, teacher shortages, and the need to provide modern, technology-equipped schools. Unfortunately, the "Education IRA" does little to help the 90 percent of our nation's children in public schools. The Joint Committee on Taxation found that this act would provide an average annual tax benefit of only \$7 for public school families by the year 2002 (and a mere \$37 for private school attendees). Despite the minor benefit, a similar bill debated last year came with a \$1.6 billion price tag—assuming the act expires in four years. Squandering \$1.6 billion in limited tax resources for such a minor and diffuse benefit is just plain bad public policy.

While the tax scheme in this bill is clearly not the answer to improve the education of our children, NSBA does support provisions that would assist schools in building and modernizing facilities, such as the increase of the arbitrage exemption and private activity bonds. However, to truly address the magnitude of the crisis in school construction, NSBA urges the committee to redirect the funds from the "Education IRA" to support the Robb-Conrad amendment to provide \$24.8 billion in interest-free bonds for school construction and renovation. According to the GAO, it will cost more than \$112 billion to repair and upgrade outdated schools. Clearly, a variety of programs are needed, including a larger source of interest-free bonds.

We strongly urge you to reject the "Education IRA" and to work with local school boards to improve and modernize our public schools for all children. If you have any questions, please contact Michelle Richards, director of federal programs, at 703-838-7208, or e-mail at mrichards@nsba.org.

Sincerely,

Mary Ellen Maxwell
President

Anne L. Bryant
Executive Director

*Excellence and Equity
in Public Education
through School Board
Leadership*

Office of Advocacy

- Mary Ellen Maxwell
President
- Anne L. Bryant
Executive Director
- Michael A. Resnick
Associate
Executive Director



COUNCIL OF CHIEF STATE SCHOOL OFFICERS

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May 18, 1999

Members of the Committee on Finance
 United States Senate
 Washington, DC 20510

Dear Senator:

On behalf of the state commissioners and superintendents of education, I write regarding the Senate Finance Committee's scheduled May 19 mark up of an education tax package. More specifically, I express the Council's views and concerns regarding those provisions related to elementary and secondary education. First, we urge the Committee to report out a comprehensive school construction tax package which benefits all of the nation's students and communities. Second, the tax provisions to reduce the costs associated with school construction must be expanded beyond arbitrage exemptions, private activity bonds, and federally-backed construction guarantees to include zero-interest school modernization bonds. Third, we urge that the resources otherwise diverted toward the expansion of education IRAs to elementary and secondary education be redirected to the expanded construction package through the Robb/Conrad amendment.

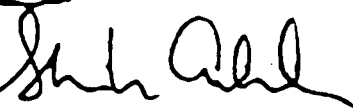
The Council urges the Committee to support the Robb/Conrad amendment and report out legislation which provides zero-interest school modernization bonds. By providing tax credits for the interest normally paid on a bond, this federal tax provision will encourage states and local school districts to increase their investment in school construction and renovation, free up resources for additional school modernization, and target those communities with the greatest need. These bills would leverage approximately \$3.1 billion over 5 years to pay the interest costs of about \$25 billion in bonds benefiting up to 6,000 schools.

A substantial federal investment is necessary to support the renovation and construction of elementary and secondary schools. A 1995 study by the GAO identified \$112 billion in school modernizations necessary to bring existing schools into good overall condition. Significant construction needs also result from the projected 10-year enrollment increases of 2.2 million elementary and secondary students, placing further strain on overcrowded schools. The Council commends the Committee for considering several measures to address this need, including relaxation of arbitrage exemptions, private activity bonds, and the guarantee of school construction bonds by the Federal Home Loan Bank. However, without including the Robb/Conrad proposal, these provisions are insufficient in scale to address the problems facing the nation's communities.

The Committee will also consider a proposal (S.14) by Senator Paul Coverdell to expand the definition of "qualified educational expenses" for the use of education IRAs to include elementary and secondary education expenses. The Council opposes this proposal, because it disproportionately favors affluent families while providing little benefit to lower and middle-income families. Current federal discretionary funding for education is targeted primarily to those students with the greatest educational and economic needs and to the improvement of quality of education for all students. These current programs, including the Individuals with Disabilities Education Act (IDEA) and ESEA, Title I, have been established by strong bipartisan support, are substantially under funded, and provide federal support for students in both public and private schools. Any additional federal funds are best used to provide for unmet needs under programs such as these and zero-interest school modernization bonds, which benefit all students and have specific purposes and systems of accountability for the use of public resources.

We commend the Committee's efforts to increase support for elementary and secondary education through use of the tax code. We urge you to support the Robb/Conrad amendment and ensure this support is targeted through zero-interest school modernization bonds, rather than through expansion of education IRAs which fail to meet the nation's education needs. Thank you for consideration of our position. If you have any questions, please call me or our Director of Federal-State Relations Camie Hayes at (202) 336-7009.

Sincerely,



Gordon M. Ambach
Executive Director

Rebuild America's Schools

National Parent Teacher Association Council of The Great City Schools National Education Association American Federation of Teachers
American Association of School Administrators National School Boards Association National Association of Federally Impacted Schools Sylvan Learning Systems, Inc.
American Institute of Architects Organizations Concerned About Rural Education National Rural Education Association California Federal Infrastructure Coalition

School Districts

Akron, OH
Aldine, TX
Birmingham City, AL
Birmingham Public, AL
Boston, MA
Broward County, FL
Brownsville, TX
Chicago, IL
Cincinnati, OH
Clark County, NV
Compton, CA
Corpus Christi, TX
Dayton, OH
Detroit, MI
Escambia, FL
Houston, TX
Jefferson Parish, LA
Jersey City, NJ
McAllen, TX
Memphis, TN
Miami-Dade, FL
Milwaukee, WI
Minneapolis, MN
Montgomery, AL
Nashville, TN
Newark, NJ
New Orleans, LA
New York, NY
Norfolk, VA
Oklahoma City, OK
Omaha, NE
Pharr-San Juan-Alamo, TX
Philadelphia, PA
Providence, RI
Richmond, VA
Rochester, NY
Savannah-Chatham, GA
St. Louis, MO
St. Paul, MN
Toledo, OH
Tulsa, OK
Ysleta, TX

May 18, 1999

Senator Daniel Patrick Moynihan
Committee on Finance
U.S. Senate
Washington, D.C. 20510

Dear Senator Moynihan:

Rebuild America's Schools requests your support during the Senate Finance Committee markup on May 19th for the Robb/Conrad amendment to strike the education savings account proposals for elementary and secondary education in support of school construction. The Robb/Conrad proposal to substitute \$25 billion in qualified school modernization bonds will help local communities address the pressing need to renovate, modernize and build schools to educate our nation's public school children. The Robb/Conrad amendment is a better investment of limited federal resources.

While the Chairman's mark contains some limited tax proposals on school construction, they fall well short of a comprehensive, meaningful response to the immense problem facing our nation's schools. By adopting the Robb/Conrad amendment, which would maintain the private activity bond and arbitrage provisions, our public schools will be provided with a broader set of financial options to help modernize school buildings.

Communities across America are struggling to address the critical need to renovate and repair existing facilities and to build schools to provide for rapidly rising school enrollments. School facility needs are straining local resources in all communities -- rural, urban, and suburban. The national need exceeds \$112 billion (GAO 1996 estimate) just to repair existing school buildings in virtually every state.

The Robb/Conrad amendment will assist local communities through school modernization bonds. **The federal investment of \$3.1 billion over five years, as estimated by the Joint Committee on Taxation, would leverage \$25 billion in school modernization bonds.** Under the proposal, a federal tax credit is given to the holder of the school modernization bonds in lieu of interest paid by the school district. Local communities would benefit both from the savings and by the investment in the public school infrastructure.

The average school building in America is fifty years old. These buildings were not designed to meet the demands of current and future technology. GAO estimates that 30% of rural, 38% of urban and 29% of suburban schools

have at least one building needing extensive repair or total replacement. This affects over 14 million students in communities across the country.

National polls indicate that the public supports federal spending to build and renovate schools. In a recent poll conducted by Frank Luntz for Rebuild America, 82% of those interviewed favored a \$22 billion/five year spending program to rebuild our nation's public schools.

Rebuild America Schools requests your support for the Robb/Conrad school construction/school modernization bonds amendment during the Senate Finance Committee mark-up of proposals related to education incentives.

Rebuild America's Schools and the following organizations support the Robb/Conrad amendment. We look forward to working with the Committee and Congress to enact bipartisan provisions to help local communities provide the schools their children will need to succeed in the 21st century.

Sincerely,

Bob Canavan

Robert P. Canavan
Chair

National Education Association
American Federation of Teachers
Organizations Concerned About Rural Education
Council of the Great City Schools
National Parent Teacher Association
National Association of Elementary School Principals
National Association for Federally Impacted Schools
National Association for Bilingual Education
National Association of Secondary School Principals
American Association of School Administrators
California Federal School Infrastructure Coalition
American Institute of Architects
United Methodist Church, General Board of Church and Society
Council of Chief State School Officers
New York City Board of Education
National School Boards Association
People for the American Way
National Association of School Psychologists
New York State Education Department

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS



815 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006

JOHN J. SWEENEY
PRESIDENT

RICHARD L. TRUMKA
SECRETARY-TREASURER

LINDA CHAVEZ-THOMPSON
EXECUTIVE VICE-PRESIDENT

LEGISLATIVE ALERT!

(202) 637-5090

May 18, 1999

The Honorable William V. Roth, Jr.
Chairman
U.S. Senate Finance Committee
219 Dirksen Senate Office Building
Washington, D.C., 20510-6200

Dear Chairman Roth:

The AFL-CIO supports the Robb-Conrad public school construction amendment to the education tax bill which the Senate Finance Committee is scheduled to consider tomorrow. This amendment would promote equal educational opportunity for all children by replacing the education savings account proposal currently in the bill with a public school construction proposal.

The AFL-CIO strongly opposes the education savings account proposal in the education tax bill because it would take scarce public funds away from public schools, which are open to all students, and shift them to private schools, which can be exclusive. More specifically, this proposal would subsidize private school tuition by allowing individuals to make \$2,000 annual contributions to education IRAs which can be withdrawn tax-free to help pay for K-12 educational expenses at private or public schools.

The AFL-CIO supports the Robb-Conrad public school construction amendment because it would help build strong public schools and strong communities for our children. As you may know, the U.S. General Accounting Office recently issued a report which found that our nation's local school districts need \$112 billion to restore public school facilities to "good" overall condition. In fact, this same GAO report also concluded that millions of our children attend school every day in buildings with life-threatening safety code violations, major electrical problems, and serious heating, ventilation, and air conditioning problems. The Robb-Conrad amendment would address these problems by providing \$3.2 billion in federal tax credits to help local school districts pay the interest on \$25 billion worth of school repair, modernization, and construction bonds.

Again, the AFL-CIO urges you to vote for the Robb-Conrad public school construction amendment as a substitute for the education savings account proposal currently in the education tax bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Peggy Taylor", with a stylized flourish at the end.

Peggy Taylor, Director
DEPARTMENT OF LEGISLATION

cc: Members of the U.S. Senate Finance Committee

The National Coalition for Public Education

c/o National PTA • 1090 Vermont Avenue, Suite 1200 • Washington, DC 20005 • (202) 289-6790 • Fax: (202) 289-6791

American Alliance for Health, Physical Education,
Recreation, & Dance
American Assn. of Colleges for Teacher Education
American Assn. of School Administrators
American Assn. of University Women
American Civil Liberties Union
Americans for Democratic Action
American Federation of State, County, and Municipal
Employees
American Federation of Teachers
American Jewish Committee
American Jewish Congress
Americans for Religious Liberty
Americans United for Separation of Church and State
Anti-Defamation League
ASPIRA
Assn. for Supervision and Curriculum Development
Baptist Joint Committee
California Department of Education
Center for Law and Education
Child Welfare League of America
Children and Adults with Attention Deficit Disorder
Childrens Defense Fund
Council of Chief State School Officers
Council for Exceptional Children
Council of the Great City Schools
General Conference of Seventh-Day Adventists
Hadassah
International Reading Assn.
Jewish Council for Public Affairs
Labor Council for Latin American Advancement
Leadership Conference on Civil Rights

League of Women Voters
National Assn. for the Advancement
of Colored People
National Assn. of Bilingual Education
National Assn. of Elementary School Principals
National Assn. of Partners in Education
National Assn. of School Psychologists
National Assn. of State Boards of Education
National Assn. of State Directors of Special
Education
National Black Child Development Institute
National Committee for Public Education &
Religious Liberty
National Council of Jewish Women
National Education Assn.
National Education Knowledge Industry Assn.
National Ministries American Baptists Churches
National Organization of Women
National PTA
National School Boards Assn.
National Urban League
New York State Education Department
Mexican American Legal Defense & Education Fund
People for the American Way
Public Employee Department AFL-CIO
Service Employees International Union AFL-CIO
Union of American Hebrew Congregations
Union of Auto Workers of American
Unitarian Universalist Assn. of Congregations
United Methodist Church
United States Student Assn.
Women of Reform Judaism

FACSIMILE

DATE: May 18, 1999

TO: Select members of the Senate Finance Committee

FROM: Brita Wilkins Lincoln

NUMBER OF PAGES (Including Cover): 3

COMMENTS: Please find attached NCPE's talking points against education savings accounts. I hope these can be useful in the debate tomorrow during the Finance Committee's mark up of "The Affordable Education Act." Please call if you have any questions, 202/289-6790.

National Coalition for Public Education

Separating Fiction from Facts: Education Savings Accounts

NCPE opposes the funneling of public money to private and religious schools through such mechanisms as K-12 education tax subsidies or education savings accounts (ESAs)¹. Those who defend K-12 ESAs claim that they would allow poor and low-income children to attend private and religious schools. Upon closer examination, however, it is clear that these families would not be the beneficiaries. K-12 ESAs are engineered to help wealthy families pay for the private school tuition they can already afford. More importantly, ESA advocates assert that these programs will improve our nation's education system. NCPE believes this argument could not be further from the truth. The following points respond to the claims made by ESA supporters:

ESAs will help our nation's education system.

ESAs will not help improve education—they will deplete badly needed resources from our public schools. While ESAs may not directly drain funds from education budgets, they do drain federal dollars from the general treasury which could be used to improve public education. ESAs divert attention away from a real debate on how to improve public schools and offer instead only a minor benefit to those who least need it. Instead of a diversion, we need a real commitment to public education. We need real investments in our public schools where student enrollment is record high, significant teacher shortages are predicted, school buildings need to be modernized and increased technology and higher academic standards are a necessity.

This is my money.

The money saved is yours, but the federal government reduces its financial revenues to provide the tax-free interest that comes from the ESA. Society must continue its long standing promise to provide a high quality education to all students. Therefore, federal education policy must not primarily benefit a few wealthy individuals. In 1998, the education tax subsidy that was debated in the House and Senate would have cost taxpayers \$1.6 billion dollars over 10 years and 70 percent of the benefits would have gone to those with incomes in the top 20 percent of all families. According to the Joint Committee on Tax, the average benefit for taxpayers with children attending private school would have been \$37. The tax benefit for children in public school would have been \$7. Is this price tag really worth the benefits?

Through an K-12 ESA, I can save a significant amount for K-12 education.

During the early years of an ESA, the tax savings could be outweighed by administrative fees. Education ESAs are not appropriate for saving for K-12 education expenses because there is not enough time for the savings to compound. Also, with most ESA proposals sunseting in five years, the length of time to save is even further reduced.

ESAs will help low-income and working families send their children to private schools.

According to a 1998 report by the Joint Committee on Taxation, ESAs disproportionately benefit the most affluent families and provide little benefit to lower and middle income families. "First, the average family typically saves a modest amount, and, therefore would get little reward from the compounding of tax-free earnings in an [ESA]. By contrast, wealthy families save more, and

¹ Hereinafter both are referred to as ESAs

**The National Coalition
for
Public Education**

1090 Vermont Ave., NW, Suite 1200
Washington, DC 20005-4905 • (202) 289-6790

This fact sheet was produced by the National Coalition for Public Education which is comprised of more than 50 education, civic, civil rights, and religious organizations devoted to the support of public schools. Founded in 1978, NCPE opposes the funneling of public money to private and religious schools through such mechanisms as tuition tax credits and vouchers.

Education Savings Accounts, *continued*

therefore, would have greater accumulations of tax-free earnings in an [ESA]. Second, the benefit of tax-free accumulation under the bill increases with a family's marginal tax rate. Thus, for a family in the 31 percent marginal tax bracket that saved \$2,500 per year for six years would realize twice the tax benefit under the bill (\$1046) as a family in the 15 percent bracket saving the same amount (\$514)."—Robert E. Rubin, Secretary of the Treasury and Richard Riley, Secretary of Education

ESAs will offer parents choice.

Education savings accounts do not offer parents choice. First, ESAs will not do anything to help families choose if they do not have extra money to save. Second, ESAs do nothing to assure that a child will be accepted into a private school. Private schools make the choice by deciding who they admit or deny. Private schools are free to deny admission to anyone they choose, especially children with costly special needs such as a learning or physical disability or limited-English proficiency. ESAs will not give choices to working families who cannot afford to pay or save for their child's private school tuition.

ESAs will help families who want to move their children from public schools to private schools.

Education savings accounts will disproportionately help families with children already in private schools. Of the families with children already in private school, 83 percent would use these accounts, according to the Joint Committee on Taxation. Keep in mind that only about 10 percent of the nation's students attend private schools.

Most of the ESA benefits would go to help cover the cost of public education.

Forty percent of K-12 ESA benefits would in fact go to children in public schools but that is because 90 percent of children attend public schools. Over 52 percent of the tax benefit would go to families who already send their children to private schools. Most of the tax benefits would be used to pay for higher education. Higher education savings accounts already exist under current law. NCPE does not oppose higher education ESAs because post-secondary education is very different from K-12 education. Every state mandates K-12 education and provides a tuition-free education for every child whereas higher education is purely optional and is tuition-based.

Parents want ESAs.

Voters have made it clear that education savings accounts are not what they want. In the November 1998 Colorado elections, 61 percent of voters rejected a tuition tax credit initiative. Voters in 20 states have rejected referenda that included funding schemes for education, such as vouchers and education tax subsidies.

Let's be honest about ESAs—they will do nothing to help public schools that educate approximately 46 million of our nation's children. They don't raise academic standards for all children. They are tax shelters which will mainly benefit families who have money to save and who already send their children to private or religious schools.

**DESCRIPTION OF CHAIRMAN'S MARK
OF PROPOSALS RELATING TO EDUCATION INCENTIVES**

Scheduled for Markup

By the

SENATE COMMITTEE ON FINANCE

on May 19, 1999

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION



May 17, 1999

JCX-20-99

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INTRODUCTION

The Senate Committee on Finance has scheduled a markup on May 19, 1999, on various education tax incentives.

This document,¹ prepared by the staff of the Joint Committee on Taxation, provides a description of the education tax incentives (Part I) and revenue offsets (Part II) contained in the Chairman's Mark.

¹ This document may be cited as follows: Joint Committee on Taxation, *Description of Chairman's Mark of Proposals Relating to Education Incentives* (JCX-20-99) May 17, 1999.

I. EDUCATION TAX INCENTIVES

A. Modifications to Education Individual Retirement Accounts

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.² 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 18.³ 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.

Phase-out 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 (\$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 other 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

² Education IRAs generally are not subject to Federal income tax, but are subject to the unrelated business income tax ("UBIT") imposed by section 511.

³ 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.

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 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.

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 will be 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 room and board expenses (meaning the minimum room and board allowance applicable to the student as determined by the institution in calculating costs of attendance for Federal financial aid programs under sec. 472 of the Higher Education Act of 1965) 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. In addition, qualified higher education expenses do not include expenses paid with interest on education savings bonds that is excludable under section 135. No reduction of qualified higher education expenses is required, however, for a gift, bequest, devise, or inheritance.

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.

Description of Proposal

Annual contribution limit

For the period 2000 through 2003, the proposal would increase to \$2,000 the annual education IRA contribution limit. Thus, under the proposal, aggregate contributions that could be made by all contributors to one (or more) education IRAs established on behalf of any particular beneficiary would be limited to \$2,000 for each year during the period 2000 through 2003. For 2004 and later years, the annual contribution limit for education IRAs would be \$500.

Qualified expenses

With respect to contributions made during the period 2000 through 2003 (and earnings attributable to such contributions), the proposal would expand 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 would be 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. "Qualified elementary and secondary education expenses" also would include certain homeschooling education expenses if the requirements of any applicable State or local law are met with respect to such homeschooling. For contributions made in 2004 or later years (and for earnings attributable to such contributions), the definition of qualified education expenses would be limited to post-secondary education expenses.

Special needs beneficiaries

The proposal also would provide 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 proposal, in the case of a special needs beneficiary, a deemed distribution of any balance in an education IRA would not occur when the beneficiary reaches age 30.

Contributions by persons other than individuals

The proposal would clarify that corporations and other entities (e.g., tax-exempt entities) are permitted to make contributions to education IRAs, regardless of the income of the corporation or entity during the year of the contribution. As under present law, the eligibility of high-income individuals to make contributions to education IRAs would be phased out ratably for individuals with modified AGI between \$95,000 and \$110,000 (\$150,000 and \$160,000 for joint returns).

Contributions permitted until April 15

Under the proposal, individual contributors to education IRAs would be 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 in the case of individual taxpayers.

Coordination with HOPE and Lifetime Learning credits

The proposal would allow a taxpayer to claim a HOPE credit or Lifetime Learning credit for a taxable year and receive an exclusion from gross income for 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 expenses for which a credit was claimed.

Coordination with qualified tuition plans

The proposal would repeal 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)).

Effective Date

The proposals modifying education IRAs would generally be effective for taxable years beginning after December 31, 1999. The provision that increases the annual contribution limit for education IRAs to \$2,000 per year applies during the period January 1, 2000, through December 31, 2003, and the provision that expands the definition of qualified education expenses to include qualified elementary and secondary expenses applies to contributions (and earnings thereon) made during the period January 1, 2000, through December 31, 2003.

B. Private Pre-Paid Tuition Programs; Exclusion from Gross Income of Education Distributions from Qualified Tuition Programs

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. The term "qualified higher education expenses" 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 institution⁴, as well as room and board expenses (meaning the minimum room and board allowance applicable to the student as determined by the institution in calculating costs of attendance for Federal financial aid programs under sec. 472 of the Higher Education Act of 1965) 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 or another distributee (e.g., when a parent receives a refund) are included in the contributor's/distributee's gross income to the extent such amounts exceed contributions made on behalf of the beneficiary.⁵

A qualified State tuition program is required to provide that purchases or contributions only be made in cash.⁶ Contributors and beneficiaries are not allowed to directly or indirectly direct the investment of contributions to the program (or earnings thereon). The program is

⁴ "Eligible educational institutions" are defined the same for purposes of education IRAs (described in Part A, above) and qualified State tuition programs.

⁵ 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.

⁶ 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.

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 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.

No amount is includible in the gross income of a contributor to, or beneficiary of, a qualified State tuition program with respect to any contribution to or earnings on such a program until a distribution is made from the program, at which time the earnings portion of the distribution (whether made in cash or in-kind) is includible in the gross income of the distributee. 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).

Description of Proposal

Eligible educational institutions

The proposal would expand 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 would be able to purchase tuition credits or certificates on behalf of a designated beneficiary as set forth in section 529(b)(1)(A)(i), but would not be able to make contributions to an account as described in section 529(b)(1)(A)(ii) (so-called "savings account plans").

Exclusion from gross income

Under the proposal, an exclusion from gross income would be provided for distributions made in taxable years beginning after December 31, 1999, from qualified State tuition programs to the extent that the distribution is used to pay for qualified higher education expenses. This exclusion from gross income would be extended to distributions from qualified tuition programs established and maintained by an entity other than a State or agency or instrumentality thereof, for distributions made in taxable years after December 31, 2003. If a HOPE credit or Lifetime Learning credit is claimed with respect to a student for a taxable year, then a distribution from any qualified tuition program may (at the option of the taxpayer) be made on behalf of that student during that taxable year, but an exclusion from gross income would not be available for the earnings portion of such distribution.

Rollovers for benefit of same beneficiary

The proposal would modify section 529(c)(3) to clarify that a transfer of credits (or other amounts) from one account benefitting a designated beneficiary to another account benefitting the same beneficiary will not be considered a distribution for a maximum of three such transfers.

Member of family

The proposal would modify section 529(e)(2) to clarify that, for purposes of tax-free rollovers and changes of designated beneficiaries, a "member of the family" includes first cousins of the original beneficiary.

Effective Date

The proposal that would provide for the establishment of qualified tuition programs maintained by one or more private educational institutions would be effective for taxable years beginning after December 31, 1999. The proposal that would allow an exclusion from gross income for certain distributions from qualified State tuition programs under section 529 (and the modification to the definition of qualified higher education expenses under that section) is effective for distributions made in taxable years beginning after December 31, 1999. In the case of a qualified tuition program established and maintained by an entity other than a State or agency or instrumentality thereof, the proposal would be effective for distributions made in taxable years after December 31, 2003.

C. Exclusion for Employer-Provided Educational Assistance

Present Law

Educational expenses paid by an employer for its employees are generally deductible to the employer.

Employer-paid educational expenses are excludable from the gross income and wages of an employee if provided under a section 127 educational assistance plan or if the expenses qualify as a working condition fringe benefit under section 132. Section 127 provides an exclusion of \$5,250 annually for employer-provided educational assistance. The exclusion does not apply to graduate courses. The exclusion for employer-provided educational assistance expires with respect to courses beginning on or after June 1, 2000.

In order for the exclusion to apply, certain requirements must be satisfied. The educational assistance must be provided pursuant to a separate written plan of the employer. The educational assistance program must not discriminate in favor of highly compensated employees. In addition, not more than 5 percent of the amounts paid or incurred by the employer during the year for educational assistance under a qualified educational assistance plan can be provided for the class of individuals consisting of more than 5-percent owners of the employer (and their spouses and dependents).

Educational expenses that do not qualify for the section 127 exclusion may be excludable from income as a working condition fringe benefit.⁷ In general, education qualifies as a working condition fringe benefit if the employee could have deducted the education expenses under section 162 if the employee paid for the education. In general, education expenses are deductible by an individual under section 162 if the education (1) maintains or improves a skill required in a trade or business currently engaged in by the taxpayer, or (2) meets the express requirements of the taxpayer's employer, applicable law or regulations imposed as a condition of continued employment. However, education expenses are generally not deductible if they relate to certain minimum educational requirements or to education or training that enables a taxpayer to begin working in a new trade or business.⁸

⁷ These rules also apply in the event that section 127 expires and is not reinstated.

⁸ In the case of an employee, education expenses (if not reimbursed by the employer) may be claimed as an itemized deduction only if such expenses, along with other miscellaneous deductions, exceed 2 percent of the taxpayer's AGI. The 2-percent floor limitation is disregarded in determining whether an item is excludable as a working condition fringe benefit.

Description of Proposal

The proposal would extend the present-law exclusion for employer-provided educational assistance to undergraduate courses beginning before January 1, 2004. The proposal would also extend the exclusion to graduate education, effective for courses beginning after January 1, 2000, and before January 1, 2004.

Effective Date

The proposal to extend the exclusion for undergraduate courses would be effective for courses beginning before January 1, 2004. The exclusion with respect to graduate-level courses would be effective for courses beginning after January 1, 2000, and before June 1, 2004.

D. Eliminate 60-Month Limit on Student Loan Interest Deduction

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 the costs of attendance (including room and board) of the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer as of the time the indebtedness was incurred in attending on at least a half-time basis (1) post-secondary educational institutions and certain vocational schools defined by reference to section 481 of the Higher Education Act of 1965, or (2) institutions conducting internship or residency programs 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 \$1,500 in 1999, \$2,000 in 2000, and \$2,500 in 2001 and thereafter.⁹ The deduction is phased out ratably for individual taxpayers with modified adjusted gross income of \$40,000-\$55,000 and \$60,000-\$75,000 for joint returns. The income ranges will be indexed for inflation after 2002.

Description of Proposal

The proposal would eliminate the limit on the number of months during which interest paid on a qualified education loan is deductible.

Effective Date

The proposal would be effective for interest paid on qualified education loans after December 31, 1999.

⁹ The maximum allowable deduction for 1998 was \$1,000.

**E. Eliminate Tax on Awards Under National Health Corps Scholarship Program
and F. Edward Hebert Armed Forces Health Professions Scholarship
and Financial Assistance Program**

Present Law

Section 117 excludes from gross income amounts received as a qualified scholarship 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.

Section 134 provides that any "qualified military benefit," which includes any allowance, is excluded from gross income if received by a member or former member of the uniformed services if such benefit was excludable from gross income on September 9, 1986.

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 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. These education awards generally involve the payment of higher education expenses (under the NHSC Program, the awards may be also used for the repayment or cancellation of existing or future student loans). Because the recipients are required to perform services in exchange for the education awards, the awards used to pay higher education expenses are taxable income to the recipient.

Description of Proposal

The proposal would provide that amounts received by an individual under the NHSC Scholarship Program or the Armed Forces Scholarship Program are eligible for tax-free

treatment as qualified scholarships under section 117, without regard to any service obligation by the recipient.

Effective Date

The proposal would be effective for education awards received after December 31, 1993.

F. Liberalize Tax-Exempt Financing Rules for Public School Construction

Present Law

1. Tax-exempt bonds

In general

Interest on debt incurred by States 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 States and local governments, the construction, renovation, and operation of public schools is an activity eligible for financing with the proceeds of tax-exempt bonds.

Interest on bonds that nominally are issued by States or local governments, but the proceeds of which are used (directly or indirectly) by a private person and payment of which is derived from funds of such a private person is taxable unless the purpose of the borrowing is approved specifically in the Code or in a non-Code provision of a revenue Act. These bonds are called "private activity bonds." The term "private person" includes the Federal Government and all other individuals and entities other than States or local governments.

Private activities eligible for financing with tax-exempt private activity bonds

The Code includes several exceptions permitting States or local governments to act as conduits providing tax-exempt financing for private activities. Both capital expenditures and limited working capital expenditures of charitable organizations described in section 501(c)(3) of the Code -- including elementary, secondary, and post-secondary schools -- may be financed with tax-exempt private activity bonds ("qualified 501(c)(3) bonds").

States or local governments may issue tax-exempt "exempt-facility bonds" to finance property for certain private businesses. Businesses eligible for this financing include transportation (airports, ports, local mass commuting, and high speed intercity rail facilities); privately owned and/or privately operated public works facilities (sewage, solid waste disposal, local district heating or cooling, and hazardous waste disposal facilities); privately-owned and/or operated low-income rental housing; and certain private facilities for the local furnishing of electricity or gas. A further provision allows tax-exempt financing for "environmental enhancements of hydro-electric generating facilities." Tax-exempt financing is authorized for capital expenditures for small manufacturing facilities and land and equipment for first-time farmers ("qualified small-issue bonds"), local redevelopment activities ("qualified redevelopment bonds"), and eligible empowerment zone and enterprise community businesses.

Finally, tax-exempt private activity bonds may be issued to finance limited non-business purposes: student loans and mortgage loans for owner-occupied housing ("qualified mortgage bonds" and "qualified veterans' mortgage bonds").

In most cases, the volume of tax-exempt private activity bonds is restricted by aggregate annual limits imposed on bonds issued by issuers within each State. These annual volume limits equal \$50 per resident of the State, or \$150 million if greater. The annual State private activity bond volume limits are scheduled to increase to the greater of \$75 per resident of the State or \$225 million in calendar year 2007. The increase will be phased in ratably beginning in calendar year 2003. This increase was enacted by the Tax and Trade Relief Extension Act of 1998. Qualified 501(c)(3) bonds are among the tax-exempt private activity bonds that are not subject to these volume limits.

Private activity tax-exempt bonds may not be used to finance schools owned or operated by private, for-profit businesses.

Arbitrage restrictions on tax-exempt bonds

The Federal income tax does not apply to income of States and local governments that is derived from the exercise of an essential governmental function. To prevent these tax-exempt entities from issuing more Federally subsidized 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, investment profits that are earned during these periods or on such investments must be rebated to the Federal Government.

The Code 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 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 public schools.

Restriction on Federal guarantees of tax-exempt bonds

Unlike interest on State or local government bonds, interest on Federal debt (e.g., Treasury bills) is taxable. Generally, interest on State and local government bonds that are Federally guaranteed does not qualify for tax-exemption. This restriction was enacted in 1984. The 1984 legislation included exceptions for housing bonds and for certain Federal insurance programs that were in existence when the restriction was enacted.

2. Qualified zone academy bonds

As an alternative to traditional tax-exempt bonds, certain States and local governments are given the authority to issue "qualified zone academy bonds." Under present law, a total of \$400 million of qualified zone academy bonds may be issued in each of 1998 and 1999. The \$400 million aggregate bond authority is allocated each year to the States according to their respective populations of individuals below the poverty line. Each State, in turn, allocates the credit to qualified zone academies within such State. A State may carry over any unused allocation into subsequent years.

Certain financial institutions (i.e., banks, insurance companies, and corporations actively engaged in the business of lending money) that hold qualified zone academy bonds are entitled to a nonrefundable tax credit in an amount equal to a credit rate (set monthly by Treasury Department regulation at 110 percent of the applicable Federal rate for the month in which the bond is issued) multiplied by the face amount of the bond (sec. 1397E). The credit rate applies to all such bonds issued in each month. A taxpayer holding a qualified zone academy bond on the credit allowance date (i.e., each one-year anniversary of the issuance of the bond) is entitled to a credit. The credit amount is includible in gross income (as if it were a taxable interest payment on the bond), and credit may be claimed against regular income tax and alternative minimum tax liability.

"Qualified zone academy bonds" are defined as bonds issued by a State or local government, provided that: (1) at least 95 percent of the proceeds is used for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel in a "qualified zone academy;" and (2) private entities have promised to contribute to the qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds.

A school is a "qualified zone academy" if (1) the school is a public school that provides education and training below the college level, (2) the school operates a special academic program in cooperation with businesses to enhance the academic curriculum and increase graduation and employment rates, and (3) either (a) the school is located in an empowerment zone or a designated enterprise community, or (b) it is reasonably expected that at least 35 percent of the students at the school will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

Description of Proposals

1. Increase amount of governmental 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 that small governmental units may issue without being subject to the arbitrage rebate requirement would be increased from \$5 million to \$10 million. Thus, these governmental units could issue up to \$15 million of governmental bonds in a calendar year provided that at least \$10 million of the bonds were used for public schools.

2. Allow issuance of tax-exempt private activity bonds for public school facilities

The private activities for which tax-exempt bonds may be issued would be expanded to include elementary and secondary public school facilities which are owned by private, for-profit corporations pursuant to public-private partnership agreements with a State or local educational agency. The school facilities for which these bonds were issued would be required to be operated by a public educational agency as part of a system of public schools. Issuance of these bonds would be subject to an annual per-State volume limit equal to the greater of \$10 per resident (\$5 million, if greater) in lieu of the present-law State private activity bond volume limits.

3. Permit limited Federal guarantees of school construction bonds by the Federal Housing Finance Board

The Federal Housing Finance Board would be permitted to guarantee (through the 12 regional Federal Home Loan Banks in its system) up to \$500 million per year of governmental bonds 95 percent or more of the proceeds of which are used for public school construction.

Effective Dates

The proposals would be effective for bonds issued after December 31, 1999.

II. REVENUE OFFSETS

A. Modify Foreign Tax Credit Carryover Rules

Present Law

U.S. persons may credit foreign taxes against U.S. tax on foreign-source income. The amount of foreign tax credits that can be claimed in a year is subject to a limitation that prevents taxpayers from using foreign tax credits to offset U.S. tax on U.S.-source income. Separate foreign tax credit limitations are applied to specific categories of income.

The amount of creditable taxes paid or accrued (or deemed paid) in any taxable year which exceeds the foreign tax credit limitation is permitted to be carried back two years and forward five years. The amount carried over may be used as a credit in a carryover year to the extent the taxpayer otherwise has excess foreign tax credit limitation for such year. The separate foreign tax credit limitations apply for purposes of the carryover rules.

Description of Proposal

The proposal would reduce the carryback period for excess foreign tax credits from two years to one year. The proposal also would extend the excess foreign tax credit carryforward period from five years to seven years.

Effective Date

The proposal would apply to foreign tax credits arising in taxable years beginning after December 31, 2001.

B. Limit Use of Non-Accrual Experience Method of Accounting to Amounts to be Received for the Performance of Qualified Personal Services

Present Law

An accrual method taxpayer generally must recognize income when all the events have occurred that fix the right to receive the income and the amount of the income can be determined with reasonable accuracy. An accrual method taxpayer may deduct the amount of any receivable that was previously included in income that becomes worthless during the year.

Accrual method taxpayers are not required to include in income amounts to be received for the performance of services which, on the basis of experience, will not be collected (the "non-accrual experience method"). The availability of this method is conditioned on the taxpayer not charging interest or a penalty for failure to timely pay the amount charged.

A cash method taxpayer is not required to include an amount in income until it is received. A taxpayer may not use the cash method if purchase, production, or sale of merchandise is a material income producing factor. Such taxpayers are generally required to keep inventories and use the accrual method of accounting. In addition, corporations (and partnerships with corporate partners) generally may not use the cash method of accounting if their average annual gross receipts exceed \$5 million. An exception to this \$5 million rule is provided for qualified personal service corporations, corporations (1) substantially all of whose activities involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts or consulting and (2) substantially all of the stock of which is owned by current or former employees performing such services, their estates or heirs. Qualified personal service corporations are allowed to use the cash method without regard to whether their average annual gross receipts exceed \$5 million.

Description of Proposal

The proposal would limit the use of the non-accrual experience method to amounts that are to be received for the performance of qualified personal services. Amounts to be received for the performance of all other services would be subject to the general rule regarding inclusion in income. Qualified personal services are personal services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts or consulting. As under present law, the availability of the non-accrual experience method would be conditioned on the taxpayer not charging interest or a penalty for failure to timely pay the amount.

Effective Date

The proposal would be effective for taxable years ending after the date of enactment. Any change in the taxpayer's method of accounting necessitated as a result of the proposal would be treated as a voluntary change initiated by the taxpayer with the consent of the Secretary of the Treasury. Any required section 481(a) adjustment would be taken into account over a period not to exceed four years under principles consistent with those in Rev. Proc. 98-60.¹⁰

¹⁰ 1998-51 I.R.B. 16.

C. Expand Reporting of Cancellation of Indebtedness Income

Present Law

Under section 61(a)(12), a taxpayer's gross income includes income from the discharge of indebtedness. Section 6050P requires "applicable entities" to file information returns with the IRS regarding any discharge of indebtedness of \$600 or more.

The information return must set forth the name, address, and taxpayer identification number of the person whose debt was discharged, the amount of debt discharged, the date on which the debt was discharged, and any other information that the IRS requires to be provided. The information return must be filed in the manner and at the time specified by the IRS. The same information also must be provided to the person whose debt is discharged by January 31 of the year following the discharge.

"Applicable entities" include: (1) the FDIC, the RTC, the National Credit Union Administration, and any successor or subunit of any of them; (2) any financial institution (as described in sec. 581 (relating to banks) or sec. 591(a) (relating to savings institutions)); (3) any credit union; (4) any corporation that is a direct or indirect subsidiary of an entity described in (2) or (3) which, by virtue of being affiliated with such entity, is subject to supervision and examination by a Federal or State agency regulating such entities; and (5) an executive, judicial, or legislative agency (as defined in 31 U.S.C. sec. 3701(a)(4)).

The penalties for failure to file correct information reports with the IRS and to furnish statements to taxpayers are similar to those imposed with respect to a failure to provide other information returns. For example, the penalty for failure to furnish statements to taxpayers is generally \$50 per failure, subject to a maximum of \$100,000 for any calendar year. These penalties are not applicable if the failure is due to reasonable cause and not to willful neglect.

Description of Proposal

The proposal would require that information reporting on discharges of indebtedness also be done by any organization a significant trade or business of which is the lending of money (such as finance companies and credit card companies whether or not affiliated with financial institutions).

Effective Date

The proposal would be effective with respect to discharges of indebtedness after December 31, 1999.

D. Extension of IRS User Fees

Present Law

The IRS provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes. The IRS generally charges a fee for requests for a letter ruling, determination letter, opinion letter, or other similar ruling or determination. Public Law 104-117¹¹ extended the statutory authorization for these user fees¹² through September 30, 2003.

Description of Proposal

The proposal would extend the statutory authorization for these user fees through September 30, 2009.

Effective Date

The proposal would be effective on the date of enactment.

¹¹ An Act to provide that members of the Armed Forces performing services for the peacekeeping efforts in Bosnia and Herzegovina, Croatia, and Macedonia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes (March 20, 1996).

¹² These user fees were originally enacted in section 10511 of the Revenue Act of 1987 (Public Law 100-203, December 22, 1987).

E. Clarify Definition of "Subject to" Liabilities Under Code Section 357(c)

Present Law

Present law provides that the transferor of property recognizes no gain or loss if the property is exchanged solely for qualified stock in a controlled corporation (sec. 351). The assumption by the controlled corporation of a liability of the transferor (or the acquisition of property "subject to" a liability) generally will not cause the transferor to recognize gain. However, under section 357(c), the transferor does recognize gain to the extent that the sum of the assumed liabilities, together with the liabilities to which the transferred property is subject, exceeds the transferor's basis in the transferred property. If the transferred property is "subject to" a liability, Treasury regulations indicate that the amount of the liability is included in the calculation regardless of whether the underlying liability is assumed by the controlled corporation. Treas. Reg. sec. 1.357-2(a). Similar rules apply to reorganizations described in section 368(a)(1)(D).

The gain recognition rule of section 357(c) is applied separately to each transferor in a section 351 exchange.

The basis of the property in the hands of the controlled corporation equals the transferor's basis in such property, increased by the amount of gain recognized by the transferor, including section 357(c) gain.

Description of Proposal

Under the proposal, the distinction between the assumption of a liability and the acquisition of an asset subject to a liability is generally eliminated. First, except as provided in regulations, a recourse liability or any portion thereof is treated as having been assumed if, as determined on the basis of all facts and circumstances, the transferee has agreed to, and is expected to, satisfy the liability or portion thereof (whether or not the transferor has been relieved of the liability). Thus, where more than one person agrees to satisfy a liability or portion thereof, only one would be expected to satisfy such liability or portion thereof. Second, except as provided in regulations, a nonrecourse liability is treated as having been assumed by the transferee of any asset subject to such liability; except that the amount treated as assumed shall be reduced by the amount of such liability which an owner of other assets not transferred to the transferee and also subject to such liability has agreed with the transferee to, and is expected to satisfy, up to the fair market value of such other assets (determined without regard to section 7701(g)).

In determining whether any person has agreed to and is expected to satisfy a liability, all facts and circumstances are to be considered. In any case where the transferee does agree to satisfy a liability, the transferee will also be expected to satisfy the liability in the absence of facts indicating the contrary.

In determining any increase to the basis of property transferred to the transferee as a result of gain recognized because of the assumption of liabilities under section 357, such increase shall not cause the basis to exceed the fair market value of the property (determined without regard to sec. 7701(g)). In addition, if gain is recognized to the transferor as the result of an assumption by a corporation of a nonrecourse liability that is also secured by any assets not transferred to the corporation, and if no person is subject to tax under the Internal Revenue Code on such gain, then for purposes of determining the basis of assets transferred, the amount of gain treated as recognized as the result of such assumption of liability shall be determined as if the liability assumed by the transferee equaled such transferee's ratable portion of the liability, based on the relative fair market values (determined without regard to sec. 7701(g)) of all assets subject to such nonrecourse liability.

The Treasury Department has authority to prescribe such regulations as may be necessary to carry out the purposes of the provision. Where appropriate, the Treasury Department may also prescribe regulations which provide that the manner in which a liability is treated as assumed under the provision is applied elsewhere in the Code.

The Miscellaneous Trade and Technical Corrections Act of 1999 (S. 262), as reported by the Senate Finance Committee on January 22, 1999, contains a substantially identical provision.

Effective Date

The proposal would be effective for transfers on or after October 19, 1998. No inference regarding the tax treatment under present law is intended.

F. Denial of Charitable Contribution Deduction for Transfers Associated with Split-Dollar Insurance Arrangements

Present Law

Under present law, a deduction is allowed for a charitable contribution paid during the taxable year. A charitable contribution is defined to mean a contribution or gift to or for the use of specified types of organizations or governmental entities (sec. 170(c)).

Some taxpayers may be taking the position that a charitable contribution deduction is permitted under an arrangement whereby taxpayers transfer money to a charity, which the charity then uses to pay premiums for life insurance on the transferor or another person. Under these arrangements, the beneficiaries under the life insurance contract typically include members of the transferor's family (either directly or through a family trust or family partnership). The charitable organization does not have unfettered use of the transferred funds.

Description of Proposal

Deduction denial

The proposal¹³ restates present law to provide that no charitable contribution deduction is allowed for purposes of Federal tax, for a transfer to or for the use of an organization described in section 170(c) of the Internal Revenue Code, if in connection with the transfer (1) the organization directly or indirectly pays, or has previously paid, any premium on any "personal benefit contract" with respect to the transferor, or (2) there is an understanding or expectation that any person will directly or indirectly pay any premium on any "personal benefit contract" with respect to the transferor. It is intended that an organization be considered as indirectly paying premiums if, for example, another person pays premiums on its behalf.

A personal benefit contract with respect to the transferor is any life insurance, annuity, or endowment contract, if any direct or indirect beneficiary under the contract is the transferor, any member of the transferor's family, or any other person (other than a section 170(c) organization) designated by the transferor. For example, such a beneficiary would include a trust having a direct or indirect beneficiary who is the transferor or any member of the transferor's family, and would include an entity that is controlled by the transferor or any member of the transferor's family. It is intended that a beneficiary under the contract include any beneficiary under any side agreement relating to the contract. If a transferor contributes a life insurance contract to a section 170(c) organization and designates one or more section 170(c) organizations as the sole beneficiaries under the contract, generally, it is not intended that the deduction denial rule under

¹³ The proposal is similar to H.R. 630, introduced by Mr. Archer for himself and for Mr. Rangel (106th Cong., 1st Sess.).

the proposal apply. If, however, there is an outstanding loan under the contract upon the transfer of the contract, then the transferor is considered as a beneficiary. The fact that a contract also has other direct or indirect beneficiaries (persons who are not the transferor or a family member, or designated by the transferor) does not prevent it from being a personal benefit contract. The proposal is not intended to affect situations in which an organization pays premiums under a legitimate fringe benefit plan for employees.

It is intended that a person be considered as an indirect beneficiary under a contract if, for example, the person receives or will receive any economic benefit as a result of amounts paid under or with respect to the contract. For this purpose, an indirect beneficiary is not intended to include a person that benefits exclusively under a bona fide charitable gift annuity (within the meaning of sec. 501(m)).

In the case of a charitable gift annuity, if the charitable organization purchases an annuity contract issued by an insurance company to fund the payment of the charitable gift annuity, a person receiving payments under the charitable gift annuity from the charitable organization that are funded by the contract is not treated as an indirect beneficiary, provided certain requirements are met. The requirements are that (1) the charitable organization possess all of the incidents of ownership under the contract; (2) the charitable organization be entitled to all the payments under the contract; and (3) the timing and amount of payments under the contract be substantially the same as the timing and amount of payments to each person under the organization's obligation under the charitable gift annuity (as in effect at the time of the transfer to the charitable organization). Only in the case in which the charitable organization purchases an annuity contract issued by an insurance company to fund the payment of the charitable gift annuity and the contract is purchased pursuant to the laws of a State that requires each annuitant under the charitable gift annuity to be an annuitant under the contract (in order for the State insurance laws not to apply to the charitable gift annuity), then the foregoing requirements (1) and (2) are treated as if they are met, provided that the State law requirement was in effect on February 8, 1999, each annuitant under the charitable gift annuity is a bona fide resident of the State, the only persons entitled to payments under the contract are persons entitled to payments under the charitable gift annuity, and the timing and amount of payments under the contract to each person are substantially the same as the timing and amount of payments to the person under the charitable organization's obligation under the charitable gift annuity (as in effect at the time of the transfer to the charitable organization).

In the case of a charitable remainder annuity trust or charitable remainder unitrust (as defined in section 664(d)) that purchases a contract issued by an insurance company, a person who is a recipient of an annuity or unitrust amount paid by the trust is not treated as an indirect beneficiary under the contract purchased by the trust, provided the foregoing requirements (1) and (2) (applied with respect to the trust) are met.

Nothing in the proposal is intended to suggest that a life insurance, endowment, or annuity contract would be a personal benefit contract, solely because an individual who is a

recipient of an annuity or unitrust amount paid by a charitable remainder annuity trust or charitable remainder unitrust uses such a payment to purchase a life insurance, endowment or annuity contract, and a beneficiary under the contract is the recipient, a member of his or her family, or another person he or she designates.

Excise tax

The proposal imposes on any organization described in section 170(c) of the Code an excise tax, in the amount of the premiums paid by the organization on any life insurance, annuity, or endowment contract, if the payment of premiums on the contract is in connection with a transfer for which a deduction is not allowable under the deduction denial rule of the proposal. The excise tax does not apply if all of the direct and indirect beneficiaries under the contract (including any related side agreement) are organizations described in section 170(c). Under the proposal, payments are treated as made by the organization, if they are made by any other person pursuant to an understanding or expectation of payment. The excise tax is to be applied taking into account rules ordinarily applicable to excise taxes in chapter 41 or 42 of the Code (e.g., statute of limitation rules).

Reporting

The proposal requires that the organization annually report the amount of premiums that is paid during the year and that is subject to the excise tax imposed under the provision, and the name and taxpayer identification number of each beneficiary under the contract to which the premiums relate, as well as other information required by the Secretary of the Treasury. For this purpose, it is intended that a beneficiary include the beneficiary under any side agreement to which the section 170(c) organization is a party (or of which it is otherwise aware). Penalties applicable to returns required under Code section 6033 apply to returns under this reporting requirement. Returns required under this provision are to be furnished at such time and in such manner as the Secretary shall by forms or regulations require.

Regulations

The proposal provides for the promulgation of regulations necessary to carry out the purposes of the provisions.

Effective Date

The deduction denial provision of the proposal applies to transfers after February 8, 1999 (as provided in H.R. 630). The excise tax provision of the proposal applies to premiums paid after the date of enactment. The reporting provision applies to premiums (that would be subject to the excise tax were it then effective) paid after February 8, 1999.

No inference is intended that a charitable contribution deduction is allowed under present law in the circumstances to which this proposal applies. The proposal does not change the rules with respect to fraud or criminal or civil penalties under present law; thus, actions constituting fraud or that are subject to penalties under present law would still constitute fraud or be subject to the penalties after enactment of the proposal.

G. Treatment of Excess Pension Assets Used for Retiree Health Benefits

Present Law

Defined benefit pension plan assets generally may not revert to an employer prior to the termination of the plan and the satisfaction of all plan liabilities. A reversion prior to plan termination may constitute a prohibited transaction and may result in disqualification of the plan. Certain limitations and procedural requirements apply to a reversion upon plan termination. Any assets that revert to the employer upon plan termination are includible in the gross income of the employer and subject to an excise tax. The excise tax rate, which may be as high as 50 percent of the reversion, varies depending upon whether or not the employer maintains a replacement plan or makes certain benefit increases. Upon plan termination, the accrued benefits of all plan participants are required to be 100-percent vested.

A pension plan may provide medical benefits to retired employees through a section 401(h) account that is a part of such plan. A qualified transfer of excess assets of a defined benefit pension plan (other than a multiemployer plan) into a section 401(h) account that is a part of such plan does not result in plan disqualification and is not treated as a reversion to the employer or a prohibited transaction. Therefore, the transferred assets are not includible in the gross income of the employer and are not subject to the excise tax on reversions.

Qualified transfers are subject to amount and frequency limitations, use requirements, deduction limitations, vesting requirements and minimum benefit requirements. Excess assets transferred in a qualified transfer may not exceed the amount reasonably estimated to be the amount that the employer will pay out of such account during the taxable year of the transfer for qualified current retiree health liabilities. No more than one qualified transfer with respect to any plan may occur in any taxable year.

The transferred assets (and any income thereon) must be used to pay qualified current retiree health liabilities (either directly or through reimbursement) for the taxable year of the transfer. Transferred amounts generally must benefit all pension plan participants, other than key employees, who are entitled upon retirement to receive retiree medical benefits through the section 401(h) account. Retiree health benefits of key employees may not be paid (directly or indirectly) out of transferred assets. Amounts not used to pay qualified current retiree health liabilities for the taxable year of the transfer are to be returned at the end of the taxable year to the general assets of the plan. These amounts are not includible in the gross income of the employer, but are treated as an employer reversion and are subject to a 20-percent excise tax.

No deduction is allowed for (1) a qualified transfer of excess pension assets into a section 401(h) account, (2) the payment of qualified current retiree health liabilities out of transferred assets (and any income thereon) or (3) a return of amounts not used to pay qualified current retiree health liabilities to the general assets of the pension plan.

In order for the transfer to be qualified, accrued retirement benefits under the pension plan generally must be 100-percent vested as if the plan terminated immediately before the transfer.

The minimum benefit requirement requires each group health plan under which applicable health benefits are provided to provide substantially the same level of applicable health benefits for the taxable year of the transfer and the following 4 taxable years. The level of benefits that must be maintained is based on benefits provided in the year immediately preceding the taxable year of the transfer. Applicable health benefits are health benefits or coverage that are provided to (1) retirees who, immediately before the transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan and (2) the spouses and dependents of such retirees.

The provision permitting a qualified transfer of excess pension assets to pay qualified current retiree health liabilities expires for taxable years beginning after December 31, 2000.

Description of Proposal

The present-law provision permitting qualified transfers of excess defined benefit pension plan assets to provide retiree health benefits under a section 401(h) account would be extended through September 30, 2009.¹⁴ In addition, the present-law minimum benefit requirement would be replaced by the minimum cost requirement that applied to qualified transfers before December 9, 1994, to section 401(h) accounts. Therefore, each group health plan or arrangement under which applicable health benefits are provided would be required to provide a minimum dollar level of retiree health expenditures for the taxable year of the transfer and the following 4 taxable years. The minimum dollar level would be the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the transfer. The applicable employer cost for a taxable year would be determined by dividing the employer's qualified current retiree health liabilities by the number of individuals to whom coverage for applicable health benefits was provided during the taxable year.

Effective Date

The proposal would be effective with respect to qualified transfers of excess defined benefit pension plan assets to section 401(h) accounts after December 31, 2000, and before October 1, 2009.

¹⁴ In addition to amendments to the Internal Revenue Code, the proposal would make conforming amendments to applicable sections of the Employee Retirement Income Security Act ("ERISA").

H. Impose Limitation on Prefunding of Certain Employee Benefits

Present Law

Under present law, contributions to a welfare benefit fund generally are deductible when paid, but only to the extent permitted under the rules of Code sections 419 and 419A. The amount of an employer's deduction in any year for contributions to a welfare benefit fund cannot exceed the fund's qualified cost for the year. The term qualified cost means the sum of (1) the amount that would be deductible for benefits provided during the year if the employer paid them directly and was on the cash method of accounting, and (2) within limits, the amount of any addition to a qualified asset account for the year. A qualified asset account includes any account consisting of assets set aside for the payment of disability benefits, medical benefits, supplemental unemployment compensation or severance pay benefits, or life insurance benefits. The account limit for a qualified asset account for a taxable year is generally the amount reasonably and actuarially necessary to fund claims incurred but unpaid (as of the close of the taxable year) for benefits with respect to which the account is maintained and the administrative costs incurred with respect to those claims. Specific additional reserves are allowed for future provision of post-retirement medical and life insurance benefits.

The present-law deduction limits for contributions to welfare benefit funds do not apply in the case of certain 10-or-more employer plans. A plan is a 10-or-more employer plan if (1) more than one employer contributes to it, (2) no employer is normally required to contribute more than 10 percent of the total contributions under the plan by all employers, and (3) the plan does not maintain experience-rating arrangements with respect to individual employers.

Description of Proposal

Under the proposal, the present-law exception to the deduction limit for 10-or-more employer plans would be limited to plans that provide only medical, disability, and group-term life insurance benefits. This exception would no longer be available with respect to plans that provide supplemental unemployment compensation, severance pay and life insurance (other than group-term life) benefits. Thus, the generally applicable deduction limits (sections 419 and 419A) would apply to plans providing these benefits.

In addition, rules would be included to prevent amounts that are deductible pursuant to the 10-or-more employer exception (and earnings thereon) from being used to provide benefits other than medical, disability, and group-term life insurance.

Under the proposal, no inference would be intended with respect to the validity of any 10-or-more employer arrangement under the provisions of present law.

Effective Date

The proposal would be effective with respect to contributions paid after the date of enactment.

I. Modify Installment Method and Prohibit its Use by Accrual Method Taxpayers

Present Law

An accrual method taxpayer is generally required to recognize income when all events have occurred that fix the right to the receipt of the income and the amount of the income can be determined with reasonable accuracy. The installment method of accounting provides an exception to this general principle if income recognition by allowing a taxpayer to defer the recognition of income from the disposition of certain property until payment is received. Sales to customers in the ordinary course of business are not eligible for the installment method, except for sales of property that is used or produced in the trade or business of farming and sales of timeshares and residential lots if an election to pay interest under section 453(1)(2)(b)) is made.

A pledge rule provides that if an installment obligation is pledged as security for any indebtedness, the net proceeds¹⁵ of such indebtedness are treated as a payment on the obligation, triggering the recognition of income. Actual payments received on the installment obligation subsequent to the receipt of the loan proceeds are not taken into account until such subsequent payments exceed the loan proceeds that were treated as payments. The pledge rule does not apply to sales of property used or produced in the trade or business of farming, to sales of timeshares and residential lots where the taxpayer elects to pay interest under section 453(1)(2)(b), or to dispositions where the sales price does not exceed \$150,000.

An additional rules require the payment of interest on the deferred tax that is attributable to most large installment sales.

Description of Proposal

Prohibit use of installment method for accrual method dispositions

The proposal generally would prohibit the use of the installment method of accounting for dispositions of property that would otherwise be reported for Federal income tax purposes using an accrual method of accounting.

The proposal does not change present law regarding the availability of the installment method for dispositions of property used or produced in the trade or business of farming. The proposal also does not change present law regarding the availability of the installment method for dispositions of timeshares and residential taxpayers if the taxpayer elects to pay interest under section 453(1)(3).

¹⁵ The net proceeds equal the gross loan proceeds less the direct expenses of obtaining the loan.

The proposal does not change the ability of a cash method taxpayer to use the installment method. For example, a cash method individual owns all of the stock of a closely held accrual method corporation. This individual sells his stock for cash, a ten year note, and a percentage of the gross revenues of the company for next ten years. The proposal would not change the ability of this individual to use the installment method in reporting the gain on the sale of the stock.

Modify pledge rule

The proposal would also modify the pledge rule to provide that entering into any arrangement that gives the taxpayer the right to satisfy an obligation with an installment note will be treated in the same manner as the direct pledge of the installment note. For example, a taxpayer disposes of property for an installment note. The disposition is properly reported using the installment method. The taxpayer only recognizes gain as it receives the deferred payment. However, were the taxpayer to pledge the installment note as security for a loan, it would be required to treat the proceeds of such loan as a payment on the installment note, and recognize the appropriate amount of gain. Under the proposal, the taxpayer would also be required to treat the proceeds of a loan as payment on the installment note to the extent the taxpayer had the right to repay the loan by transferring the installment note to the taxpayer's creditor. Other arrangements that have a similar effect would be treated in the same manner.

The proposed modification of the pledge rule would only apply to installment sales where the pledge rule of present law applies. Accordingly, the proposal would not apply to installment method sales made by a dealer in timeshares and residential lots where the taxpayer elects to pay interest under section 453(l)(2)(b), to sales of property used or produced in the trade or business of farming, or to dispositions where the sales price does not exceed \$150,000, since such sales are not subject to the pledge rule under present law.

Effective Date

The proposal would be effective for installment sales entered into on or after the date of enactment.

J. Add Certain Vaccines Against Streptococcus Pneumonia to the List of Taxable Vaccines

Present Law

A manufacturer's excise tax is imposed at the rate of 75 cents per dose (sec. 4131) on the following vaccines routinely recommended for administration to children: diphtheria, pertussis, tetanus, measles, mumps, rubella, polio, HIB (haemophilus influenza type B), hepatitis B, varicella (chicken pox), and rotavirus gastroenteritis. The tax applies to any vaccine that is a combination of vaccine components equals 75 cents times the number of components in the combined vaccine.

Amounts equal to net revenues from this excise tax are deposited in the Vaccine Injury Compensation Trust Fund to finance compensation awards under the Federal Vaccine Injury Compensation Program for individuals who suffer certain injuries following administration of the taxable vaccines. This program provides a substitute Federal, "no fault" insurance system for the State-law tort and private liability insurance systems otherwise applicable to vaccine manufacturers. All persons immunized after September 30, 1988, with covered vaccines must pursue compensation under this Federal program before bringing civil tort actions under State law.

Description of Proposal

The proposal would add conjugated streptococcus pneumonia vaccines to the list of taxable vaccines.

Effective Date

The proposal would be effective for vaccine purchases beginning on the day after the date on which the Centers for Disease Control make final recommendation for routine administration of conjugated streptococcus pneumonia vaccines to children. No floor stocks tax would be collected for amounts held for sale on that date.

- Committee on Finance -
 ESTIMATED REVENUE EFFECTS OF THE CHAIRMAN'S MARK OF PROPOSALS RELATING TO EDUCATION INCENTIVES

Fiscal Years 2000 - 2009

[Millions of Dollars]

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2000-04	2000-09
Education Relief Provisions:													
1. Education IRAs - increase the annual contribution limit to \$2,000; expand the definition of qualified education expenses to include qualified elementary and secondary education expenses; allow education IRA contributions for special needs beneficiaries above the age of 18; allow corporations and other entities to contribute to education IRAs; allow contributions until April 15 of the following year; and allow a taxpayer to exclude ED IRA distributions from gross income and claim the HOPE or Lifetime Learning credits as long as they are not used for the same expenses; sunset 12/31/03	tyba 12/31/99	-50	-164	-251	-337	-375	-343	-329	-306	-270	-218	-1,176	-2,642
2. Qualified Tuition Plans - tax-free distributions from State plans; and allow private institutions to offer prepaid tuition plans, tax-deferred in 2000, with tax-free distributions beginning in 2004; earnings are not exempt if the HOPE or Lifetime Learning Credit is claimed	tyba 12/31/99	-5	-18	-30	-46	-67	-94	-123	-152	-180	-209	-166	-925
3. Employer Provided Assistance - extend the exclusion for undergraduate courses through 12/31/03; add the exclusion for graduate level courses from 1/1/00 through 12/31/03	1/1/00	-254	-510	-598	-637	-228	---	---	---	---	---	-2,227	-2,227
4. Student Loan Interest - eliminate the 60 month rule for interest paid after 12/31/99	ipa 12/31/99	-16	-64	-69	-71	-74	-77	-78	-79	-87	-94	-295	-709
5. Eliminate the tax on awards under the National Health Corps Scholarship program and F. Edward Hebert Armed Forces Health Professions Scholarship program	tyba 12/31/93	-2	-1	-1	-1	[1]	[1]	-1	-1	-1	-1	-5	-8
6. Increase arbitrage rebate exception for governmental bonds used to finance qualified school construction from \$10 million to \$15 million	bia 12/31/99	[1]	-2	-4	-5	-13	-14	-14	-15	-16	-17	-25	-102
7. Issuance of tax-exempt private activity bonds for qualified education facilities with annual volume cap the greater of \$10 per resident or \$5 million	bia 12/31/99	-4	-16	-33	-52	-76	-103	-133	-163	-192	-220	-181	-992

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2000-04	2000-09
8. Allow Federal Home Loan Bank to guarantee school construction bonds, capped at \$500 million annually	bia 12/31/99	[1]	-1	-1	-1	-2	-2	-3	-3	-3	-3	-5	-19
Total of Education Relief Provisions:		-331	-776	-987	-1,150	-835	-633	-681	-719	-749	-762	-4,080	-7,624
Possible Revenue Offset Provisions:													
1. 1-year carryback of foreign tax credits and 7-year carryforward	cai lyba 12/31/01	...	...	94	596	533	496	464	431	295	269	1,223	3,178
2. Limit use of non-accrual experience method of accounting to amounts to be received for the performance of qualified professional services	lyea DOE	12	77	60	33	28	10	12	14	16	18	210	280
3. Information reporting on cancellation of indebtedness by non-bank financial institutions	coda DOE 9/30/03	2	7	7	7	7	7	7	7	7	7	30	65
4. Extension of IRS user fees through 9/30/09 [2]		...	...	...	...	50	53	56	59	61	64	50	343
5. Clarify the meaning of "subject to" liabilities under section 357(c)	to/a 10/19/98	19	14	16	18	20	22	24	26	28	30	87	217
6. Deny deduction for charitable split dollar life insurance		[3]	13	13	14	15	15	16	17	18	19	20	70
7. Allow employers to transfer excess defined benefit plan assets to a special account for health benefits of retirees (through 9/30/09)	tmi lyba 12/31/00	...	19	38	39	40	41	42	42	43	44	136	348
8. Impose limitation on pre-funding of certain employee benefits	cpa DOE	81	141	147	149	140	129	118	105	90	74	659	1,175
9. Repeal installment method for most accrual basis taxpayers; adjust pledge rules	iseio/a DOE	477	677	406	257	72	8	21	35	48	62	1,889	2,063
10. Include the Streptococcus Pneumonia vaccine in the Federal vaccine insurance program	[4]	4	7	9	10	10	10	10	10	10	11	39	91
Total of Possible Revenue Offset Provisions:		608	955	791	1,124	915	792	771	747	617	599	4,393	7,919
NET TOTAL:		277	179	-196	-26	80	159	90	28	-132	-163	313	295
Joint Committee on Taxation													

NOTE: Details may not add to totals due to rounding.

Legend for "Effective" column:
 bia = bonds issued after
 cai = credits arising in
 coda = cancellation of indebtedness after
 cpa = contributions paid after
 DOE = date of enactment
 ipa = interest paid after

iseio/a = installment sales entered into on or after
 tmi = transfers made in.
 to/a = transfer on or after
 lyba = taxable years beginning after
 yea = taxable years ending after

- [1] Loss of less than \$500,000.
- [2] Estimate provided by the Congressional Budget Office.
- [3] Effective for transfers made after 2/8/99 and for premiums paid after the date of enactment.
- [4] Effective for vaccine purchases the day after the date on which the Centers for Disease Control make final recommendation for routine administration of conjugated Streptococcus Pneumonia vaccines to children.

**DESCRIPTION OF MODIFICATION TO CHAIRMAN'S MARK
OF PROPOSALS RELATING TO EDUCATION INCENTIVES**

The Senate Committee on Finance has scheduled a markup on May 19, 1999, on various education tax incentives in an original bill, entitled the "Affordable Education Act of 1999." A description of the Chairman's Mark is contained in *Description of Chairman's Mark of Proposals Relating to Education Incentives* (JCX-20-99), May 17, 1999.

Under the modification, a taxpayer would be permitted to claim a HOPE or Lifetime Learning credit for a taxable year and receive an exclusion from gross income for amounts distributed (both the principal and earnings portions) from an education individual retirement account and/or from a qualified tuition program on behalf of the same student in the same year as long as the distributions are not used for the same expenses for which a credit was claimed. This modification would be effective for distributions made during the period January 1, 2000, through December 31, 2003.

Under the modification, the exclusion for employer-provided education assistance, as applied to both graduate and undergraduate education, would be extended through courses beginning on or before June 30, 2004.¹

¹ The *Description of Chairman's Mark of Proposals Relating to Education Incentives* (JCX-20-99), May 17, 1999, at p. 11 under the heading "Effective Date," incorrectly states that the Chairman's Mark would extend the exclusion for graduate-level courses to courses beginning after January 1, 2000, and before June 1, 2004. The effective date is correctly stated, at p. 11 under the "Description of Proposal," as graduate-level courses beginning after January 1, 2000, and before January 1, 2004.

- Committee on Finance -
 ESTIMATED REVENUE EFFECTS OF A MODIFIED CHAIRMAN'S MARK OF EDUCATION TAX INCENTIVES IN AN ORIGINAL BILL,
 THE "AFFORDABLE EDUCATION ACT OF 1999"

Fiscal Years 2000 - 2009

(Millions of Dollars)

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2000-04	2000-09
Education Relief Provisions:													
1. Education IRAs - increase the annual contribution limit to \$2,000; expand the definition of qualified education expenses to include qualified elementary and secondary education expenses; sunset 12/31/03; allow education IRA contributions for special needs beneficiaries above the age of 18; allow corporations and other entities to contribute to education IRAs; allow contributions until April 15 of the following year; and allow a taxpayer to exclude ED IRA distributions from gross income and claim the HOPE or Lifetime Learning credits as long as they are not used for the same expenses; coordination with HOPE/Lifetime Learning credits sunsets 12/31/03 (thereafter earnings withdrawn do not receive tax-free treatment if HOPE/Lifetime Learning credit is claimed)	tyba 12/31/99	-50	-164	-251	-337	-355	-290	-278	-257	-226	-179	-1,156	-2,387
2. Qualified Tuition Plans - tax-free distributions from State plans; and allow private institutions to offer prepaid tuition plans, tax-deferred in 2000, with tax-free distributions beginning in 2004; allow a taxpayer to exclude State plan distributions from gross income and claim the HOPE or Lifetime Learning credits as long as they are not used for the same expenses; coordination with HOPE/Lifetime Learning credits sunsets 12/31/03 (thereafter earnings withdrawn do not receive tax-free treatment if HOPE/Lifetime Learning credit is claimed)	tyba 12/31/99	-6	-22	-38	-57	-76	-94	-123	-152	-180	-209	-200	-959
3. Employer Provided Assistance - extend the exclusion for undergraduate courses through 6/30/04; add the exclusion for graduate level courses from 1/1/00 through 6/30/04	1/1/00	-254	-510	-598	-637	-455	-122	---	---	---	---	-2,454	-2,577
4. Student Loan Interest - eliminate the 60 month rule for interest paid after 12/31/99	ipa 12/31/99	-16	-64	-69	-71	-74	-77	-78	-79	-87	-94	-295	-709

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2000-04	2000-09
5. Eliminate the tax on awards under the National Health Corps Scholarship program and F. Edward Hebert Armed Forces Health Professions Scholarship program	tyba 12/31/93	-2	-1	-1	-1	[1]	[1]	-1	-1	-1	-1	-5	-8
6. Increase arbitrage rebate exception for governmental bonds used to finance qualified school construction from \$10 million to \$15 million	bia 12/31/99	[1]	-2	-4	-5	-13	-14	-14	-15	-16	-17	-25	-102
7. Issuance of tax-exempt private activity bonds for qualified education facilities with annual volume cap the greater of \$10 per resident or \$5 million	bia 12/31/99	-4	-16	-33	-52	-76	-103	-133	-163	-192	-220	-181	-992
8. Allow Federal Home Loan Bank to guarantee school construction bonds, capped at \$500 million annually	bia 12/31/99	[1]	-1	-1	-1	-2	-2	-3	-3	-3	-3	-5	-19
Total of Education Relief Provisions.....		-332	-780	-995	-1,161	-1,051	-702	-630	-670	-705	-723	-4,321	-7,753
Possible Revenue Offset Provisions:													
1. 1-year carryback of foreign tax credits and 7-year carryforward	cai tyba 12/31/01	--	--	94	596	533	496	464	431	295	269	1,223	3,178
2. Limit use of non-accrual experience method of accounting to amounts to be received for the performance of qualified professional services	tyea DOE	12	77	60	33	28	10	12	14	16	18	210	280
3. Information reporting on cancellation of indebtedness by non-bank financial institutions	coda 12/31/99	--	7	7	7	7	7	7	7	7	7	28	63
4. Extension of IRS user fees through 9/30/09 [2]	9/30/03	--	--	--	--	50	53	56	59	61	64	50	343
5. Clarify the meaning of "subject to" liabilities under section 357(c)	to/a 10/19/98	19	14	16	18	20	22	24	26	28	30	87	217
6. Deny deduction for charitable split dollar life insurance	[3]	13	13	14	15	15	16	17	18	19	20	70	159
7. Allow employers to transfer excess defined benefit plan assets to a special account for health benefits of retirees (through 9/30/09)	tmi tyba 12/31/00	--	19	38	39	40	41	42	42	43	44	136	348
8. Impose limitation on pre-funding of certain employee benefits	opa DOE	81	141	147	149	140	129	118	105	90	74	659	1,175
9. Repeal installment method for most accrual basis taxpayers; adjust pledge rules	iseio/a DOE	477	677	406	257	72	8	21	35	48	62	1,889	2,063
10. Include the Streptococcus Pneumonia vaccine in the Federal vaccine insurance program	[4]	4	7	9	10	10	10	10	10	10	11	39	91
Total of Possible Revenue Offset Provisions.....		606	955	791	1,124	915	792	771	747	617	599	4,391	7,917

NET TOTAL.....		274	175	-204	-37	-136	90	141	77	-88	-124	70	164
Joint Committee on Taxation													

NOTE: Details may not add to totals due to rounding.

Legend and Footnotes for JCX-23-99:

Legend for "Effective" column:

- bia = bonds issued after
- cai = credits arising in
- coda = cancellation of indebtedness after
- cpa = contributions paid after
- DOE = date of enactment
- ipa = interest paid after

- iseio/a = installment sales entered into on or after
- tmi = transfers made in
- to/a = transfer on or after
- tyba = taxable years beginning after
- tyea = taxable years ending after

- [1] Loss of less than \$500,000.
- [2] Estimate provided by the Congressional Budget Office.
- [3] Effective for transfers made after 2/8/99 and for premiums paid after the date of enactment.
- [4] Effective for vaccine purchases the day after the date on which the Centers for Disease Control make final recommendation for routine administration of conjugated Streptococcus Pneumonia vaccines to children.

AMENDMENT OFFERED BY SENATOR MAX BAUCUS

Modify Section 170(e)(6)(B) relating to the enhanced charitable deduction for computer donations to schools as follows:

- eliminate the existing limitation of the deduction to twice basis;
- modify the calculation of the deduction from ½ the difference between the basis in the property and its Fair Market Value to 90% of the difference between basis and FMV;
- give the same treatment as new property to reacquired property that is refurbished to a standard equivalent to newly constructed property;
- extend the modified contribution to a date that matches the available revenue.

Offset: Eliminate from eligibility payments for tuition and room and board expenses in grades K-12 from the expanded education IRA in the Chairman's bill.

Graham Amendment to the Chairman's Mark
Coordination of Qualified Tuition Plans
and the HOPE/Lifetime Learning Credits

To provide that a taxpayer may claim a HOPE credit or Lifetime Learning credit for a taxable year and receive an exclusion from gross income for amounts distributed from a qualified tuition program on behalf of the same student as long as the distribution is not used for the same expenses as the credit is claimed.

Summary:

This is an effort to coordinate the various education savings plans (Education IRAs and Prepaid college tuition programs) with the HOPE credit and Lifetime Learning Credit.

In the Chairman's mark, the Education IRAs are coordinated with the HOPE credit and Lifetime Learning credit, so that students and their families do not have to choose one or the other. They can use both so long as the distribution is not used for the same expenses for which a credit was claimed.

In Part B of the Chairman's mark, distributions from prepaid programs can be excluded from gross income. However, if a HOPE credit, or Lifetime learning credit, is claimed, an exclusion from gross income would not be available for the earnings portion of a distribution of a prepaid tuition program.

The amendment would provide the same coordination for prepaid tuition that will exist under the mark between the HOPE credit/Lifetime Learning credit and Education IRAs. A student will be able to use both, so long as they are not paying for the same expenses.

KERREY/BREAUX

AMENDMENT TO ENHANCE THE CHARITABLE DEDUCTION FOR CONTRIBUTIONS TO QUALIFIED LOW-INCOME ELEMENTARY AND SECONDARY PUBLIC, PRIVATE AND PAROCHIAL SCHOOLS

Proposed Amendment--Effective for taxable years beginning after December 31, 1999 and continuing through December 31, 2003, individuals who itemize their deductions would be given an enhanced incentive to make contributions to low-income public, private and parochial elementary and secondary schools. Under this proposal a low-income school would track the current Title I ESEA definition where more than fifty percent of the students qualify for free or reduced price lunches. The enhancement would be in the nature of doubling the value of the deduction.

Under current law, individuals giving to a 501(c)(3) educational organization may already deduct these contributions. This amendment simply doubles the value of that deduction for qualified low-income schools. The current charitable contributions limit of no more than fifty percent of a donor's adjusted gross income would still apply.

Offset--An appropriate offset will be provided.

ROBB-CONRAD AMENDMENT
School Construction Bonds

To the extent of revenue provided by the offsets below, provide for the issuance of up to \$24.8 billion in qualified school modernization bonds, with bondholders receiving tax credits in lieu of an interest payment from the issuer of the bond. Any taxpayer may hold these bonds, the term for which will be 15 years. The issuance shall occur as follows: \$12.4 billion in 2000 and \$12.4 billion in 2001. For those states or localities that do not issue their entire allocation amount, the unused portion of the allocation shall be carried over to the next year. Schools funded by the Bureau of Indian Affairs shall be qualified to issue bonds under this proposal.

<u>Offsets</u>	<u>5Yrs</u>	<u>10Yrs</u>
Education IRA--Strike language in Chairman's Mark	\$1.2b	\$2.6b
Estate -- Restore phase-out of unified credit for large estates.	\$0.4b	\$1.2b
Accounting--Repeal lower of cost-or-market inventory accounting method	\$1.5b	\$1.9b
Accounting--Provide consistent amortization periods for intangibles	\$0.5b	\$2.4b
Miscellaneous--Deny deduction for punitive damages	<u>\$0.2b</u>	<u>\$0.5b</u>
	\$3.8b	\$8.6b

*(Conrad)
Not filed, not offered C.L.C.
Discussed in private meeting
Both promised "to discuss"
The amendment at another time,*

AMENDMENT NO. _____ Calendar No. _____

Purpose: To amend the Internal Revenue Code of 1986 to allow employers a credit against income tax for information technology training expenses paid or incurred by the employer, and for other purposes.

IN THE SENATE OF THE UNITED STATES—106th Cong., 1st Sess.

(no.) _____

(title) _____

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. CONRAD

Viz:

1 At the appropriate place, insert the following:

2 SEC. ____ CREDIT FOR INFORMATION TECHNOLOGY TRAIN-
3 ING PROGRAM EXPENSES.

4 (a) IN GENERAL.—Subpart D of part IV of sub-
5 chapter A of chapter 1 of the Internal Revenue Code of
6 1986 (relating to business-related credits) is amended by
7 adding at the end the following:

1 "SEC. 45D. INFORMATION TECHNOLOGY TRAINING PRO-
2 GRAM EXPENSES.

3 "(a) GENERAL RULE.—For purposes of section 38,
4 in the case of an employer, the information technology
5 training program credit determined under this section is
6 an amount equal to 20 percent of information technology
7 training program expenses paid or incurred by the tax-
8 payer during the taxable year.

9 "(b) ADDITIONAL CREDIT PERCENTAGE FOR CER-
10 TAIN PROGRAMS.—The percentage under subsection (a)
11 shall be increased by 5 percentage points for information
12 technology training program expenses paid or incurred—

13 "(1) by the taxpayer with respect to a program
14 operated in—

15 "(A) an empowerment zone or enterprise
16 community designated under part I of sub-
17 chapter U,

18 "(B) a school district in which at least 50
19 percent of the students attending schools in
20 such district are eligible for free or reduced-cost
21 lunches under the school lunch program estab-
22 lished under the National School Lunch Act,

23 "(C) an area designated as a disaster area
24 by the Secretary of Agriculture or by the Presi-
25 dent under the Disaster Relief and Emergency

1 Assistance Act in the taxable year or the 4 pre-
2 ceding taxable years,

3 “(D) a rural enterprise community des-
4 igned under section 766 of the Agriculture,
5 Rural Development, Food and Drug Adminis-
6 tration, and Related Agencies Appropriations
7 Act, 1999,

8 “(E) an area designated by the Secretary
9 of Agriculture as a Rural Economic Area Part-
10 nership Zone, or

11 “(F) an area designated by the Secretary
12 of Agriculture as a Champion Community, or

13 “(2) by a small employer.

14 “(c) LIMITATION.—The amount of information tech-
15 nology training program expenses with respect to an indi-
16 vidual which may be taken into account under subsection
17 (a) for the taxable year shall not exceed \$6,000.

18 “(d) INFORMATION TECHNOLOGY TRAINING PRO-
19 GRAM EXPENSES.—For purposes of this section—

20 “(1) IN GENERAL.—The term ‘information
21 technology training program expenses’ means ex-
22 penses paid or incurred by reason of the participa-
23 tion of the employer in any information technology
24 training program.

1 “(2) INFORMATION TECHNOLOGY TRAINING
2 PROGRAM.—The term ‘information technology train-
3 ing program’ means a program—

4 “(A) for the training of—

5 “(i) computer programmers, systems
6 analysts, and computer scientists or engi-
7 neers (as such occupations are defined by
8 the Bureau of Labor Statistics), and

9 “(ii) such other occupations as deter-
10 mined by the Secretary, after consultation
11 with a working group broadly solicited by
12 the Secretary and open to all interested in-
13 formation technology entities and trade
14 and professional associations,

15 “(B) involving a partnership of—

16 “(i) employers, and

17 “(ii) State training programs, school
18 districts, university systems, tribal colleges,
19 or certified commercial information tech-
20 nology training providers, and

21 “(C) at least 50 percent of the costs of
22 which is paid or incurred by the employers.

23 “(3) CERTIFIED COMMERCIAL INFORMATION
24 TECHNOLOGY TRAINING PROVIDER.—The term ‘cer-
25 tified commercial information technology training

1 providers' means a private sector provider of edu-
2 cational products and services utilized for training in
3 information technology which is certified with re-
4 spect to—

5 “(A) the curriculum that is used for the
6 training, or

7 “(B) the technical knowledge of the in-
8 structors of such provider,

9 by 1 or more software publishers or hardware manu-
10 facturers the products of which are a subject of the
11 training.

12 “(e) SMALL EMPLOYER.—For purposes of this sec-
13 tion, the term ‘small employer’ means, with respect to any
14 calendar year, any employer if such employer employed
15 200 or fewer employees on each business day in each of
16 20 or more calendar weeks in such year or the preceding
17 calendar year.

18 “(f) DENIAL OF DOUBLE BENEFIT.—No deduction
19 or credit under any other provision of this chapter shall
20 be allowed with respect to information technology training
21 program expenses (determined without regard to the limi-
22 tation under subsection (c)).

23 “(g) CERTAIN RULES MADE APPLICABLE.—For pur-
24 poses of this section, rules similar to the rules of section

1 45A(e)(2) and subsections (c), (d), and (e) of section 52
2 shall apply.”

3 (b) CREDIT TO BE PART OF GENERAL BUSINESS
4 CREDIT.—Section 38(b) of the Internal Revenue Code of
5 1986 (relating to current year business credit) is amended
6 by striking “plus” at the end of paragraph (11), by strik-
7 ing the period at the end of paragraph (12) and inserting
8 “, plus”, and by adding at the end the following:

9 “(13) the information technology training pro-
10 gram credit determined under section 45D.”

11 (c) NO CARRYBACKS.—Subsection (d) of section 39
12 of the Internal Revenue Code of 1986 (relating to
13 carryback and carryforward of unused credits) is amended
14 by adding at the end the following:

15 “(9) NO CARRYBACK OF SECTION 45D CREDIT
16 BEFORE EFFECTIVE DATE.—No portion of the un-
17 used business credit for any taxable year which is
18 attributable to the information technology training
19 program credit determined under section 45D may
20 be carried back to a taxable year ending before the
21 date of the enactment of section 45D.”

22 (d) CLERICAL AMENDMENT.—The table of sections
23 for subpart D of part IV of subchapter A of chapter 1
24 of the Internal Revenue Code of 1986 is amended by add-
25 ing at the end the following:

“Sec. 45D. Information technology training program expenses.”

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to amounts paid or incurred after
3 the date of enactment of this Act in taxable years ending
4 after such date.

SENATE

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Congress of the United States

JOINT COMMITTEE ON TAXATION

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DEPUTY CHIEF OF STAFF
(LAW)BERNARD A. SCHMITT
DEPUTY CHIEF OF STAFF
(REVENUE ANALYSIS)

Honorable Kent Conrad
 United States Senate
 Washington, DC 20510

MAY 13 1998

Dear Senator Conrad:

This letter is in response to your request dated March 18, 1998, for a revenue estimate of a proposal to provide a tax credit for certain information technology training expenses incurred by businesses.

In general, the proposal would provide a 20 percent tax credit on expenses paid or incurred by a taxpayer for an eligible information technology training program. The applicable credit would rise to 25 percent for expenses of eligible programs operated in one of the following areas: (1) an empowerment zone or enterprise community; (2) a school district in which at least 50 percent of the students attending schools in such a district are eligible for free or reduced-cost lunches; (3) an area designated as a disaster area in the taxable year or the 4 preceding taxable years. For purposes of the credit, no more than \$6,000 per trainee may be treated as eligible expenses. Thus, the maximum tax credit per trainee is \$1,200 (\$1,500 for programs operated in special areas as described above).

Under the proposal, an eligible information technology training program means a program that satisfies the following criteria: (1) the program is for the training of computer programmers, systems analysts, and computer scientists or engineers (as defined by the Bureau of Labor Statistics); (2) the program involves a partnership between the taxpayer, and State training programs, school districts, or university systems; and (3) at least 50 percent of the costs of the program is paid or incurred by the taxpayer.

The tax credit would be part of the General Business Credit as provided in section 38 of the Internal Revenue Code. For purposes of the revenue estimate, we have assumed that no portion of the unused tax credit could be carried back to a taxable year ending before the date of enactment, and any deduction provided for eligible information technology training program expenses would be reduced by the amount of the tax credit.

The tax credit would apply to expenses paid or incurred after the date of enactment. To prepare a revenue estimate, we have assumed an enactment date of August 1, 1998. Estimated changes in Federal fiscal year budget receipts are as follows:

Congress of the United States

JOINT COMMITTEE ON TAXATION

Washington, DC 20515-6453

Honorable Kent Conrad
United States Senate

Page Two

Fiscal Years (Millions of Dollars)											
<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>1998-02</u>	<u>1998-07</u>
	-4	-9	-12	-13	-14	-14	-15	-16	-15	-37	-112

NOTE: Details do not add to total due to rounding.

I hope this information is helpful to you. If we can be of further assistance, please let me know.

Sincerely,

LS

Lindy L. Paull

S. 456, INFORMATION TECHNOLOGY TRAINING ACT
(tax credit against income tax for information technology training expenses)

PURPOSE

Legislation would provide tax credits to businesses that train workers or other individuals in information technology skills. The intent of the legislation is to encourage business to retrain current employees or other individuals, or enter into partnerships with schools, job training programs, universities, or other non-profit organizations to train individuals in information technology skills. Larger tax credits--up to 25 percent of information technology training expenses--would be extended to businesses that focus their training of workers or individuals from empowerment zones, enterprise community, school districts where 50 percent or more of students are entitled to school lunch programs, tribal colleges, small business employer, or an area designated as a disaster area by the president or Secretary of Agriculture.

CREDITS

The basic tax credit would be equal to 20 percent of information technology training expenses, but not to exceed \$6,000 per employee in the taxable year. The percentage would increase by 5 percent to 25 percent for a business that operates or initiates a training program in an empowerment zone, an enterprise community, a school district where at least 50 percent of students are eligible to participate in the school lunch program, a tribal college, a small business employer, or in an area designated by the President or Secretary of Agriculture as a disaster zone. The tax credit would apply to businesses providing the IT training directly, or through certified commercial information technology training providers. The credits would be effective with respect to amounts paid or incurred after the date of enactment for tax years ending after such date.

ESTIMATED COST

The Joint Committee on Taxation (JCT) has estimated (May, 1998) has estimated the cost of this information technology education training tax credit at \$52 million over five years, \$112 million over ten years. JCT is preparing an updated estimate.

JUSTIFICATION

According to reports in 1998 by the Department of Commerce and the Information Technology Association of America (ITAA), there are more than 340,000 highly skilled positions in information technology that are not filled. Moreover, the Department of Labor projected that the US economy would require more than 130,000 information technology jobs in three fields-- computer scientists, engineers, and systems analysts--every year for the next ten years. In response to this IT worker shortage, Vice President Gore announced a number of initiatives in January, 1998, to help ease this shortage. The tax credits would complement those initiatives.

ENDORSEMENTS

Information Technology Association of America; Software Information Industry Association; American Society For Training and Development; Information Technology Training Association; CompTIA Public Policy Committee; Cisco Systems; SRA International, Inc.; Global Knowledge Network, Inc.; Technology Training Tax Coalition (five organizations)