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S. 763—AFFORDABLE EDUCATION ACT OF 2001

APRIL 24, 2001.—Ordered to be printed

Mr. GRASSLEY, from the Committee on Finance, submitted the following

REPORT

[To accompany S. 763]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance reported an original bill (S. 763) to amend the Internal Revenue Code of 1986 to allow tax-free expenditures from education individual retirement accounts for elementary and secondary school expenses, to increase the maximum annual amount of contributions to such accounts, and for other purposes, having considered the same, reports favorably thereon and recommends that the bill do pass.

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I. LEGISLATIVE BACKGROUND AND SUMMARY

A. Legislative Background

The Senate Committee on Finance marked up an original bill (the "Affordable Education Act of 2001") on March 13, 2001, and ordered the bill favorably reported by a roll call vote of 20 yeas and no nays.

B. Summary

Education tax incentives (Title I)

The bill increases the annual contribution limit for education IRAs from $500 to $2,000, expands the definition of qualified education to include qualified elementary and secondary education expenses, allows education IRA contributions for special needs beneficiaries above age 18, allows corporations and other entities to contribute to education IRAs, provides an exclusion from income for certain contributions to education IRAs, allows a taxpayer to exclude education IRA distributions from gross income and claim the HOPE or Lifetime Learning credits as long as they are not used for the same expenses, allows contributions to education IRAs and qualified tuition programs in the same year for the same beneficiary, eliminates the marriage penalty in the income phase-out ranges for education IRAs, and redesignates education IRAs as Coverdell Education Savings Accounts. The provisions modifying education IRAs generally are effective for taxable years beginning after December 31, 2001.

The bill permits private educational institutions to offer prepaid tuition plans, effective for taxable years beginning after December 31, 2001. In addition, the bill allows a taxpayer to exclude certain distributions from qualified tuition programs from gross income and to claim the HOE or Lifetime Learning credit as long as they are not used for the same expenses. The bill also increases the amount of room and board expenses that can be paid from qualified tuition plans. The provision is generally effective for distributions made in taxable years beginning from December 31, 2001. The exclusion from gross income is extended to private prepaid tuition plans, effective for taxable years beginning from December 31, 2003.

Educational assistance (Title II)

The bill makes permanent the exclusion from gross income for employer-provided educational assistance. In addition, the bill expands the exclusion to apply to graduate courses. The provision is effective for courses beginning after December 31, 2001.

The bill eliminates the 60-month limit relating to the deduction for interest paid on qualified student loans and increases the income limits on the student loan interest deduction. The provision is effective for interest paid after December 31, 2001.

The bill provides an exclusion from gross income for awards under the National Health Service Corps Scholarship program and the F. Edward Herbert Armed Forces Health Professions Scholarship and Financial Assistance program, effective for taxable years beginning after December 31, 2001.

Tax benefits for certain types of bonds for educational facilities and activities (Title III)

The bill increases the arbitrage rebate exception for governmental bonds used to finance qualified school construction from $10 million to $15 million, effective for bonds issued after December 31, 2001.

The bill permits the issuance of tax-exempt private activity bonds for qualified education facilities with an annual volume cap of the greater of $10 per resident or $5 million, effective for bonds issued after December 31, 2001.

II. EXPLANATION OF THE BILL

A. EDUCATION SAVINGS INCENTIVES (TITLE I OF THE BILL)

1. Modifications to education IRAs (sec. 101 of the bill and sec. 530 of the Code)

PRESENT LAW

In general

Section 530 of the Internal Revenue Code (the "Code") 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 designated beneficiary. Contributions to education IRAs may be made only in cash.[1] Annual contributions to education IRAs may not exceed $500 per beneficiary (except in cases involving certain tax-free rollovers, as described below) and may not be made after the designated beneficiary reaches age 18.

Phase out of contribution limit

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

Treatment of distributions

Earnings on contributions to an education IRA generally are subject to tax when withdrawn. However, distributions from an education IRA are excludable from the gross income of the beneficiary to the extent that the total distribution does not exceed the "quali-

[1] Special estate and gift tax rules apply to contributions made to and distributions made from education IRAs.

fied higher education expenses" incurred by the beneficiary during the year the distribution is made.

If the qualified higher education expenses of the beneficiary for the year are less than the total amount of the distribution (i.e., contributions 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., the 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 includable in the beneficiary's gross income.

The earnings portion of a distribution from an education IRA that is includable in income is also subject to an additional 10-percent tax. The 10-percent additional tax does not apply if a distribution is made on account of the death or disability of the designated beneficiary, or on account of a scholarship received by the designated beneficiary.

The additional 10-percent tax also does not apply to the distribution of any contribution to an education IRA made during the taxable year if such distribution is made on or before the date that a return is required to be filed (including extensions of time) by the beneficiary for the taxable year during which the contribution was made (or, if the beneficiary is not required to file such a return, April 15th of the year following the taxable year during which the contribution was made).

Present law allows tax-free transfers or rollovers of account balances from one education IRA benefiting one beneficiary to another education IRA benefiting 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 and is under age 30.

Any balance remaining in an education IRA is deemed to be distributed within 30 days after the date that the 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. 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.

Moreover, qualified higher education expenses include, within limits, room and board expenses for any academic period during which the beneficiary is at least a half-time student. Room and board expenses that may be treated as qualified higher education expenses are limited to the minimum room and board allowance applicable to the student in calculating costs of attendance for Federal financial aid programs under section 472 of the Higher Education Act of 1965, as in effect on the date of enactment of the Small Business Job Protection Act of 1996 (August 20, 1996). Thus, room and board expenses cannot exceed the following amounts: (1) for a student living at home with parents or guardians, $1,500 per academic year; (2) for a student living in housing owned or operated by the eligible education institution, the institution's "normal" room and board charge; and (3) for all other students, $2,500 per academic year.

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.

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

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.

Time for making contributions

Contributions to an education IRA for a taxable year are taken into account in the taxable year in which they are made.

Coordination with HOPE and Lifetime Learning credits

If an exclusion from gross income is allowed for distributions from an education IRA with respect to an individual, then neither the HOPE nor Lifetime Learning credit may be claimed in the same taxable year with respect to the same individual. However, an individual may elect to waive the exclusion with respect to distributions from an education IRA. If such a waiver is made, then the HOPE or Lifetime Learning credit may be claimed with respect to the individual for the taxable year.

Coordination with qualified tuition programs

An excise tax is imposed on contributions to an education IRA for a year if contributions are made by anyone to a qualified State tuition program on behalf of the same beneficiary in the same year. The excise tax is equal to 6 percent of the contributions to the education IRA. The excise tax is imposed each year after the contribution is made, unless the contributions are withdrawn.

REASONS FOR CHANGE

Education IRAs were intended to help families plan for their children's education. However, the Committee believes that the present-law limits on contributions to education IRAs do not permit taxpayers to save adequately. Therefore, the Committee bill increases the contributions limits to education IRAs and provides an exclusion for certain employer contributions to education IRAs.

The Committee believes that education IRAs should be expanded to provide greater flexibility to families in providing for their children's education at all levels of education. Thus, the Committee bill allows education IRAs to be used for expenses related to elementary and secondary education.

The Committee believes that other modifications will also improve the attractiveness and operation of education IRAs, thus improving the effectiveness of education IRAs in assisting families in paying for education. Such modifications include more flexible rules for education IRAs for special needs beneficiaries and relaxation of the rules restricting the use of education IRAs and other tax benefits for education in the same year.

Finally, the Committee wishes to recognize the tireless work of our late colleague Senator Paul Coverdell to improve the quality of education in our country. Thus, the Committee bill renames education IRAs as Coverdell education savings accounts.

EXPLANATION OF PROVISIONS

Redesignation of education IRAs as Coverdell education savings accounts

The bill renames "education IRAs" as "Coverdell education savings accounts."

Annual contribution limit

The bill increases the annual limit on contributions to Coverdell education savings accounts from $500 to $2,000. Thus, under the bill, aggregate contributions that may be made by all contributors to one (or more) Coverdell education savings account established on behalf of any particular beneficiary is limited to $2,000 for each year.

Exclusion for contributions to Coverdell education savings accounts

The bill provides an exclusion from gross income and wages for Social Security tax purposes for certain employer contributions to a Coverdell education savings account for the employee, the employee's spouse, or a lineal descendent of the employee or his or her spouse (provided such individual otherwise meets the eligibility requirements for Coverdell education savings accounts). The maximum amount excludable is $500 per year per each beneficiary. Thus, for example, if an employee has two children under age 18, the employer could contribute $500 each year to a Coverdell education savings account for each child. The exclusion does not apply to self-employed individuals. The employer is required to report the amount of any Coverdell education savings account contributions on the employee's W–2 for the year.

In order to be excludable from gross income, the contribution must be made pursuant to a plan that meets the requirements of an educational assistance program under section 127. Thus, for example, the plan must be in writing and must satisfy nondiscrimination rules.

Coverdell education savings accounts contributions that are excludable from gross income are treated as earnings for purposes of determining the amount includable in gross income, if any, due to a withdrawal from the Coverdell education savings account.

Qualified education expenses

The bill expands the definition of qualified education expenses that may be paid tax-free from a Coverdell education savings account to include "qualified elementary and secondary school expenses," meaning expenses for (1) tuition, fees, academic tutoring, special need services, books, supplies, computer equipment (including related software and services), and other equipment incurred in connection with the enrollment or attendance of the beneficiary at a public, private, or religious school providing elementary education (kindergarten through grade 12) as determined under State law, and (2) room and board, uniforms, transportation, and supplementary items or services (including expended day programs) required or provided by such a school in connection with such enrollment or attendance of the beneficiary.

Phase out of contribution limit

The bill increases the phase-out range for married taxpayers filing a joint return so that it is twice the range for single taxpayers. Thus, the phase-out range for married taxpayers filing a joint return is $190,000 to $220,000 of modified AGI.

Special needs beneficiaries

The bill provides that the rule prohibiting contributions to a Coverdell education savings account after the beneficiary attains 18 does not apply in the case of a special needs beneficiary (as defined by Treasury Department regulations). In addition, a deemed distribution of any balance in a Coverdell education savings account does not occur when a special needs beneficiary reaches age 30.

Contributions by persons other than individuals

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

Contributions permitted until April 15

Under the proposal, individual contributors to Coverdell education savings accounts are deemed to have made a contribution on the last day of the preceding taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the individual's Federal income tax return for such taxable year (not including extensions). Thus, individual contributors generally may make contributions for a year until April 15 of the following year.

Qualified room and board expenses

The bill modifies the definition of room and board expenses considered to be qualified higher education expenses. This modification is described in Part II.A.2, below.

Coordination with HOPE and Lifetime Learning credits

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

Coordination with qualified tuition programs

The bill repeals the excise tax on contributions made by any person to a Coverdell education savings account 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.

If distributions from a Coverdell education savings account and qualified tuition programs exceed the beneficiary's qualified higher education expenses for the year (after reduction by amounts used in claiming the HOPE or Lifetime Learning credit), the beneficiary must allocate the expenses between the distributions to determine the amount includible in income.

Effective date

The provisions modifying Coverdell education savings accounts are effective for taxable years beginning after December 31, 2001, except that the redesignation of Coverdell education savings accounts as Coverdell education savings accounts is effective on the date of enactment.

2. Private prepaid tuition programs; exclusion from gross income of education distributions from qualified tuition programs (sec. 102 of the bill and sec. 529 of the Code)

PRESENT LAW

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

No amount is included in the gross income of a contributor to, or a 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 are included in the beneficiary's gross income (unless excludable under another Code section) to the extent such amounts or the value of the educational benefits exceed contributions made on behalf of the beneficiary, and (2) amounts distributed to a contributor (e.g., when a parent receives a refund) are included in the contributor's gross income to the extent such amounts exceed contributions made on behalf of the beneficiary.[3]

A qualified State tuition program is required to provide that purchases or contributions only be made in cash.[4] Contributors and beneficiaries are now allowed to direct the investment of contributions to the program (or earnings thereon). The program is required to maintain a separate accounting for each designated beneficiary. A specified individual must be designated as the beneficiary at the commencement of participation in a qualified State tuition program (i.e., when contributions are first made to purchase an interest in such a program), unless interests in such a program are purchased by a State or local government or a tax-exempt charity described in section 501(c)(3) as part of a scholarship program operated by such government or charity under which beneficiaries to be named in the future will receive such interests as scholarships.

A transfer of credits (or other amounts) from one account benefiting one designated beneficiary to another account benefiting 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: (1) the spouse of the beneficiary; (2) a son or daughter of the beneficiary or a descendent of either; (3) a stepson or stepdaughter of the beneficiary; (4) a brother, sister, stepbrother or stepsister of the beneficiary; (5) the father or mother of the beneficiary or an ancestor of either; (6) a stepfather or stepmother of the beneficiary; (7) a son or daughter of a brother or sister of the beneficiary; (8) a brother or sister of the father or mother of the beneficiary; (9) a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the beneficiary; or (10) the spouse of any person described in (2)–(9).

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 beneficiary to the extent

[2] An "eligible education institution" is defined the same for purposes of education IRAs (described in Part II.A.1, above) and qualified State tuition programs.

[3] Distributions from qualified State tuition programs are treated as representing a pro rata share of the contributions and earnings in the account.

[4] Special estate and gift tax rules apply to contributions made to and distributions made from qualified State tuition programs.

the amount refunded does not exceed the amount of the scholarship used for higher education expenses.

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

REASONS FOR CHANGE

The Committee believes that distributions from qualified State tuition programs should not be subject to Federal income tax to the extent that such distributions are used to pay for qualified higher education expenses of undergraduate or graduate students who are attending college, university, or certain vocational schools. In addition, the Committee believes that the present-law rules governing qualified tuition programs should be expanded to permit private educational institutions to maintain certain prepaid tuition programs. The Committee believes that the amount of room and board expenses that can be paid with tax-free distributions from prepaid tuition plans should reflect current costs.

EXPLANATION OF PROVISION

Qualified tuition program

The bill expands the definition of "qualified tuition program" to include certain prepaid tuition programs established and maintained by one or more eligible educational institutions (which may be private institutions) that satisfy the requirements under section 529 (other than the present-law State sponsorship rule). In the case of a qualified tuition program maintained by one or more private eligible educational institutions, persons are able to purchase tuition credits or certificates on behalf of a designated beneficiary (as set forth in sec. 529(b)(1)(A)(i)), but are not able to make contributions to a savings account plan (as described in section 529(b)(1)(A)(ii)). Except to the extent provided in regulations tuition program maintained by a private institution would not be treated as qualified unless it has received a rule or determination that the program satisfies applicable requirements.

Exclusion from gross income

Under the bill, an exclusion from gross income is provided for distributions made in taxable years beginning after December 31, 2001, 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 is 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.

Qualified higher education expenses

The bill provides that, for purposes of the exclusion for distributions from qualified tuition plans, the maximum room and board allowance is the amount applicable to the student in calculating costs of attendance for Federal financial aid programs under section 472 of the Higher Education Act of 1965, as in effect on the date of enactment of this Act, or, in the case of a student living in housing owned or operated by an eligible educational institution, the actual amount charged the student by the educational institution for room and board.[5]

Coordination with HOPE and Lifetime Learning credits

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

Rollovers for benefit of same beneficiary

The bill provides that a transfer of credits (or other amounts) from one qualified tuition program for the benefit of a designated beneficiary to another qualified tuition program for the benefit of the same beneficiary is not considered a distribution. This rollover treatment applies to a maximum of three such transfers with respect to the same designated beneficiary.

Member of family

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

Effective date

The provision is effective for taxable years beginning after December 31, 2001, except that the exclusion from gross income for certain distributions from a qualified tuition program established and maintained by an entity other than a State (or agency or instrumentality thereof) is effective for taxable years beginning after December 31, 2003.

B. Educational Assistance (Title II of the Bill)

1. Exclusion for employer-provided educational assistance (sec. 201 of the bill and sec. 127 of the Code)

PRESENT LAW

Educational expenses paid by an employer for its employees are generally deductible by 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 beginning after June 30, 1996. The exclusion for employer-provided educational assistance for undergraduate courses expires with respect to courses beginning after December 31, 2001.

[5] This definition would also apply to distributions from education IRAs.

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 five 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 five 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.[6] 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.[7]

REASONS FOR CHANGE

The Committee believes that the exclusion for employer-provided educational assistance has enabled millions of workers to advance their education and improve their job skills without incurring additional taxes and a reduction in take-home pay. In addition, the exclusion lessens the complexity of the tax laws. Without the special exclusion, a worker receiving educational assistance from his or her employer is subject to tax on the assistance, unless the education is related to the worker's current job. Because the determination of whether particular educational assistance is job related is based on the facts and circumstances, it may be difficult to determine with certainty whether the educational assistance is excludable from income. This uncertainty may lead to disputes between taxpayers and the Internal Revenue Service.

The Committee believes that reinstating the exclusion for graduate-level employer-provided educational assistance will enable more individuals to seek higher education, and that further extension of the exclusion is important.

The past experience of allowing the exclusion to expire and later extending it retroactively has created burdens for employers and employees. Employees may have difficulty planning for their educational goals if they do not know whether their tax bills will increase. For employers, the lack of permanence of the provision has caused severe administrative problems. Uncertainty about the ex-

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[6] These rules also apply in the event that section 127 expires.

[7] 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 expenses, exceed two percent of the taxpayer's AGI. An individual's total deductions may also be reduced by the overall limitation on itemized deductions under section 68. These limitations do not apply in determining whether an item is excludable from income as a working condition fringe benefit.

clusion's future may discourage some employers from providing educational benefits.

EXPLANATION OF PROVISION

The bill extends the exclusion for employer-provided educational assistance to graduate education and makes the exclusion (as applied to both undergraduate and graduate education) permanent.

Effective date.—The provision is effective with respect to courses beginning after December 31, 2001.

2. Modifications to student loan interest deduction (sec. 202 of the bill and sec. 221 of the Code)

PRESENT LAW

Certain individuals may claim an above-the-line deduction for interest paid on qualified education loans, subject to a maximum annual deduction limit. 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 voluntary payments, such as interest payments made during a period of loan forbearance. Months during which interest payments are not required because the qualified education loan is in deferral or forbearance do not count against the 60-month period. No deduction is allowed to an individual if that individual is claimed as a dependent on another taxpayer's return for the taxable year.

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

The maximum allowable annual deduction is $2,500. The deduction is phased out ratably for single taxpayers with modified AGI between $40,000 and $55,000 and for married taxpayers filing joint returns with modified AGI between $60,000 and $75,000. The income ranges will be indexed for inflation after 2002.

REASONS FOR CHANGE

The Committee believes that it is appropriate to expand the deduction for individuals who pay interest on qualified education loans by repealing the limitation that the deduction is allowed only with respect to interest paid during the first 60 months in which interest payments are required. In addition, the repeal of the 60-month limitation lessens complexity and administrative burdens for taxpayers, lenders, loan servicing agencies, and the Internal Revenue Service. The Committee also believes it appropriate to increase the income phase-out ranges applicable to the student loan interest deduction to make the deduction available to more taxpayers and to reduce the potential marriage penalty caused by the phase-out ranges.

EXPLANATION OF PROVISION

The bill increases the income phase-out ranges for eligibility for the student loan interest deduction to $50,000 to $65,0000 for single taxpayers to $100,000 to $130,000 for married taxpayers filing joint returns. These income phase-out ranges are indexed for inflation after 2002.

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

Effective date.—the provision is effective for interest paid on qualified education loans after December 31, 2001.

3. Eliminate tax on awards under the National Health Service Corps Scholarship Program and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program (sec. 203 of the bill and sec. 117 of the Code)

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.

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

The National Health Service Corps Scholarship Program (the "NHSC Scholarship Program") and the F. Edward Hebert Armed Forces Health Professions Scholarship and Financial Assistance Program (the "Armed Forces Scholarship Program") provide education awards to participants on the 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. 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.

REASONS FOR CHANGE

The Committee believes it appropriate to provide tax-free treatment for scholarships received by medical, dental, nursing, and physician assistant students under the NHSC Scholarship Program and the Armed Forces Scholarship Program.

EXPLANATION OF PROVISION

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. As with other qualified scholarships under section 117, the tax-free treatment would not apply to amounts received by students for regular living expenses, including room and board.

Effective date.—The provision is effective for education awards received after December 31, 2001.

C. Tax Benefits for Certain Types of Bonds for Educational Facilities and Activities (Title III of the Bill) (Secs. 301–302 of the Bill and Secs. 142 and 146–148 of the Code)

PRESENT LAW

Tax-exempt bonds

In general

Interest on debt [8] 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).[9] Like other activities carried out or 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." [10] 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

Present law 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,

[8] Hereinafter referred to as "State or local government bonds."

[9] Interest on this debt included in calculating the "adjusted current earnings" preference of the corporate alternative minimum tax.

[10] Interest on private activity bonds (other than qualified 501(c)(3) bonds) is a preference item in calculating the alternative minimum tax.

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. Business facilities 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 also 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. Tax-exempt private activity bonds also may be issued to finance limited non-business purposes: certain student loans and mortgage loans for owner-occupied housing ("qualified mortgage bonds" and "qualified veterans' mortgage bonds").

Private activity tax-exempt bonds may not be issued to finance schools for private, for-profit businesses.

In most cases, the aggregate volume of private activity tax-exempt bonds is restricted by annual aggregate volume limits imposed on bonds issued by issuers within each State. These annual volume limits are equal to $62.50 per resident of the State, or $187.5 million if greater. The volume limits are scheduled to increase to the greater of $75 per resident of the State or $225 million in calendar year 2002. After 2002, the volume limits will be indexed annually for inflation.

Arbitrage restrictions on tax-exempt bonds

The Federal income tax does not apply to the 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 needed for the purpose of the borrowing, the Code includes arbitrage restrictions limiting the ability to profit from investment of tax-exempt bond proceeds. In general, arbitrage profits may be earned only during specified periods (e.g., defined "temporary periods" before funds are needed for the purpose of the borrowing) or on specified types of investments (e.g. "reasonably required reserve or replacement funds"). Subject to limited exceptions, profits that are earned during these periods or on such investments must be rebated to the Federal Government.

Present law includes three exceptions to the arbitrage rebate requirements 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.[11]

[11] 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. 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.[12] Issuers qualifying for this "construction bond" exception may elect to be subject to a fixed penalty payment regime in lieu of rebate if they fail to satisfy the spending requirements.

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.[13]

Qualified zone academy bonds

As an alternative to traditional tax-exempt bonds, 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 through 2001. 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 an unused allocation for up to two years (three years for authority arising before 2000).

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 the amount equal to a credit rate multiplied by the face amount of the bond. An eligible financial institution 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 includable in gross income (as if it were a taxable interest payment on the bond), and the credit may be claimed against regular income tax and alternative minimum tax liability.

The Treasury Department sets the credit rate daily at a rate estimated to allow issuance of qualified zone academy bonds without discount and without interest cost to the issuer. The maximum term of the bonds also is determined by the Treasury Department, so that the present value of the obligation to repay the bond is 50 percent of the face value of the bond. Present value is determined using as a discount rate the average annual interest rate of tax-exempt obligations with a term of 10 years or more issued during the month.

[12] Retainage amounts are limited to no more than five percent of the bond proceeds, and these amounts must be spent for the purpose of the borrowing no later than 36 months after the bonds are issued.

[13] The Small Business Job Protection Act of 1996 permitted issuance of the additional $5 million in public school bonds by small governments. Previously, small governments were defined as governments that issued no more than $5 million of governmental bonds without regard to the purpose of the financing.

"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 a designated 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.

REASONS FOR CHANGE

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

Further, the Committee wishes to encourage public-private partnerships to improve educational opportunities. To permit public-private partnerships to reap the benefit of the implicit subsidy to capital costs provided through tax-exempt financing, the Committee determining that it is appropriate to allow the issuance of tax-exempt private activity bonds for public school facilities.

EXPLANATION OF PROVISIONS

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 requirements is increased from $5 million to $10 million. Thus, these governmental units may issue up to $15 million of governmental bonds in a calendar year provided that at least $10 million of the bonds are used to finance public school construction expenditures.

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

The private activities for which tax-exempt bonds may be issued are 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 term school facility includes school buildings and functionally related and subordinate land (including stadiums or other athletic facilities primarily used for school events)[14] and depreciable personal property used in the school facility. The school facilities for which these bonds are issued must be operated by a public agency as part of a system of public schools.

A public-private partnership agreement is defined as an arrangement pursuant to which the for-profit corporate party constructs, rehabilitates, refurbishes or equips a school facility for a public school agency (typically pursuant to a lease arrangement). The agreement must provide that, at the end of the contract term, ownership of the bond-financed property is transferred to the public school agency party to the agreement for no additional consideration.

Issuance of these bonds is subject to a separate annual per-State private activity bond volume limit equal to $10 per resident ($5 million, if greater) in lieu of the present-law State private activity bond volume limits. As with the present-law State private activity bond volume limits, States can decide how to allocate the bond authority to State and local government agencies. Bond authority that is unused in the year in which it arises may be carried forward for up to three years for public school projects under rules similar to the carryforward rules of the present-law private activity bond volume limits.

Effective date

The provisions are effective for bonds issued after December 31, 2001.

III. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATES

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the estimated budget effects of the revenue provisions of the "Affordable Education Act of 2001" as reported.

[14] The present-law limit on the amount of the proceeds of a private activity bond issue that may be used to finance land acquisition does not apply to these bonds.

ESTIMATED REVENUE EFFECTS OF THE "AFFORDABLE EDUCATION ACT OF 2001" AS REPORTED BY THE COMMITTEE ON FINANCE

[Fiscal years 2002–2011, in millions of dollars]

Provision	Effective	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2002–06	2002–11
1. Education IRAs—													
a. Increase the annual contribution limit to $2,000; 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; allow a taxpayer to exclude education IRA distributions from gross income and claim the HOPE or Lifetime Learning credits as long as they are not used for the same expenses; repeal excise tax on contributions made to education IRA when contribution made by anyone on behalf of same beneficiary to QTP; modify phaseout range for married taxpayers	tyba 12/31/01	−175	−315	−397	−483	−575	−671	−771	−874	−982	−1,114	−1,944	−6,355
b. Rename education IRAs "Coverdell Education Savings Accounts"	tyba 12/31/01						No Revenue Effect						
c. Allow tax-free expenditures for elementary and secondary school expenses	tyba 12/31/01	−28	−50	−63	−77	−91	−106	−120	−137	−152	−171	−309	−996
d. Exclusion from income and wages for employer contributions to education IRAs	tyba 12/31/01	−144	−209	−249	−272	−295	−318	−341	−365	−390	−415	−1,166	−2,995
2. Qualified Tuition Plans—tax-free distributions from State plans; allow private institutions to offer prepaid tuition plans, tax-deferred in 2002, with tax-free distributions beginning in 2004; allow a taxpayer to exclude QTP distributions from gross income and claim the HOPE or Lifetime Learning credits as long as they are not used for the same expenses; expand definition of family member to include cousins; allow tax-free distributions for actual living expenses	tyba 12/31/01	−24	−53	−81	−111	−141	−170	−200	−234	−256	−283	−410	−1,553
3. Employer Provided Assistance—permanently extend the exclusion for undergraduate courses and graduate level courses	cba 12/31/01	−519	−720	−760	−804	−852	−904	−958	−1,012	−1,068	−1,127	−3,656	−8,725
4. Student loan interest—eliminate the 60–month rule; increase phaseout ranges to $50,000–$65,000 single/$100,000–$130,000 joint; indexed for inflation after 2002	ipa 12/31/01	−170	−245	−262	−277	−289	−305	−321	−338	−356	−375	−1,243	−2,937
5. Eliminate the tax on awards under the National Health Corps Scholarship program and F. Edward Hebert Armed Forces Health Professions Scholarship program	tyba 12/31/01	−1	−1	−1	−1	−1	−1	−1	−1	−1	−1	−5	−9
6. Increase arbitrage rebate exception for governmental bonds used to finance qualified school construction from $10 million to $15 million	bia 12/31/01	(1)	−3	−5	−6	−11	−15	−16	−17	−18	−19	−25	−109
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 12/31/01	−5	−19	−38	−61	−88	−120	−155	−191	−224	−257	−212	−1,160
Net Total		−1,066	−1,615	−1,856	−2,092	−2,343	−2,610	−2,883	−3,169	−3,447	−3,762	−8,970	−24,839

[1] Loss of less than $500,000.

Legend for "Effective" column: bia = bonds issued after; cba = courses beginning after; ipa = interest paid after; tybba = taxable years beginning after.

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

Source: Joint Committee on Taxation.

B. BUDGET AUTHORITY AND TAX EXPENDITURES

Budget authority

In compliance with section 308(a)(1) of the Budget Act, the Committee states that the revenue provisions of the bill as reported involve no new or increased budget authority.

Tax expenditures

In compliance with section 308(a)(2) of the Budget Act, the Committee states that the revenue-reducing provisions of the bill involve increased tax expenditures (see revenue table in Part III. A., above).

C. CONSULTATION WITH CONGRESSIONAL BUDGET OFFICE

In accordance with section 403 of the Budget Act, the Committee advises that the Congressional Budget Office submitted the following statement on this bill:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 23, 2001.

Hon. CHARLES E. GRASSLEY,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Affordable Education Act of 2001.

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

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

Affordable Education Act of 2001

Summary: The Affordable Education Act of 2001 would make a number of changes in the tax code related to the financing of educational expenses. The Joint Committee on Taxation (JCT) estimates that these provisions would reduce revenues by about $1.1 billion in 2002, by about $9 billion over the 2002–2006 period, and by $24.8 billion over the 2002–2011 period. Since the bill would affect receipts, pay-as-you-go procedures would apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Major provisions: The Affordable Education Act of 2001 would redesignate educational individual retirement accounts (IRAs) as Coverdell Education Savings Accounts, increase the limit on annual contributions to the accounts from $500 to $2,000, expand the accounts to apply to elementary and secondary education, allow contributions for a taxable year to be made by April 15 of the following year, and repeal the 10 percent excise tax on certain contributions. The bill also would expand the ability of married taxpayers filing joint returns to contribute to education savings accounts. The bill would increase the ranges of income for which the contribution limits are phased out, from $150,000 to $160,000 to modified adjusted gross income (AGI), to twice that of single taxpayers, or $190,000 to $220,000 of modified AGI. These and the other provisions of the bill would become effective on January 1, 2002, unless otherwise noted.

The bill also would expand the definition of qualified state tuition programs to include prepaid tuition plans established and maintained by certain educational institutions, including private institutions. Furthermore, beneficiaries would be allowed to exclude from taxable income all distributions from such prepaid tuition programs at private institutions starting in 2004, and distributions from all state plans starting in 2002.

The Affordable Education Act of 2001 also would expand the ability of taxpayers to deduct interest paid on their student loans. The bill would increase the ranges of income for which the deduction claimed by taxpayers is phased out ratably. The phase-out range for taxpayers filing singly would change from between $40,000 and $50,000 to between $50,000 and $60,000, and the phase-out range for married taxpayers filing joint returns would change from between $60,000 and $70,000 to between $100,000 and $130,000. The phase-out ranges would be indexed for inflation after 2002. In addition, the bill would repeal the limit of 60 months during which a taxpayer can deduct such interest payments.

The bill would make various other changes to tax incentives for education. The bill would extend the exclusion from gross income for employer-provided educational assistance to include graduate education, and would make that exclusion permanent for both undergraduate and graduate education. The bill would allow certain education awards to be excluded from gross income. The bill also would increase the amount of bonds for public schools that small governmental units may issue without being subject to the requirements for arbitrage rebate and would allow governments to issue a limited amount of tax-exempt bonds for certain privately-owned public school facilities. The bill would allow taxpayers to claim HOPE of Lifetime Learning credits if the distribution from education savings accounts or from qualified tuition programs is not used for the same expenses for which those credits were claimed.

Estimated cost to the Federal Government: The estimated budgetary impact of the Affordable Education Act of 2001 is shown in the following table. All estimates were provided by JCT.

	By fiscal year, in millions of dollars—				
	2002	2003	2004	2005	2006
CHANGES IN REVENUES					
Estimated Revenues	−1,066	−1,615	−1,856	−2,092	−2,343

Source: Joint Committee on Taxation.

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

	By fiscal year, in millions of dollars—									
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Changes in receipts	−1,066	−1,615	−1,856	−2,092	−2,343	−2,610	−2,883	−3,169	−3,447	−3,762
Changes in outlays	Not applicable									

Intergovernmental and private-sector impact: The bill contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Erin Whitaker.

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

IV. VOTES OF THE COMMITTEE

In compliance with paragraph 7(b) of rule XXVI of the standing Rules of the Senate, the following statements are made concerning the roll call votes in the Committee's consideration of the "Affordable Education Act of 2001."

Motion to report the bill

The bill (S. 763, the "Affordable Education Act of 2001") was ordered favorably reported, by a unanimous roll call vote of 200 yeas and 0 nays March 13, 2001. The vote, with a quorum present, was as follows:

Yeas.—Senators Grassley, Hatch, Murkowski, Nickles, Gramm, Lott, Jeffords, Thompson, Snowe, Kyl, Baucus, Rockefeller, Daschle, Breaux, Conrad, Graham, Bingaman, Kerry, Torricelli, Lincoln.

Nays.—None.

Votes on other amendments

An amendment by Senators Torricelli and Lott to provide that elementary and secondary school expenses are qualified expenses that can be paid tax-free from an education IRA and making other changes to education IRAs was adopted on a roll call vote of 12 yeas and 8 nays. The vote, with a quorum present, was as follows:

Yeas.—Senators Grassley, Hatch (proxy), Murkowski (proxy), Nickles, Gramm, Lott, Thompson (proxy), Snowe, Kyl, Breaux (proxy), Graham, Torricelli.

Nays.—Senators Jeffords, Baucus, Rockefeller, Daschle, Conrad, Bingaman, Kerry, Lincoln.

An amendment by Senator Kerry regarding school construction financing was defeated on a roll call vote which was a tie, 10 yeas and 10 nays. The vote, with a quorum present, was as follows:

Yeas.—Senators Baucus, Rockefeller, Daschle, Breaux, Conrad, Graham, Bingaman, Kerry, Torricelli, Lincoln.

Nays.—Senators Grassley, Hatch, Murkowski, Nickles, Gramm, Lott, Jeffords, Thompson, Snowe, Kyl.

V. REGULATORY IMPACT AND OTHER MATTERS

A. Regulatory Impact

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement concerning the regulatory impact that might be incurred in carrying out the provisions of the bill as amended.

Impact on individuals and businesses

With respect to individuals, the bill modifies the rules relating to (1) education IRAs, (2) qualified tuition plans, (3) the exclusion for employer-provided educational assistance, (4) the student loan interest deduction, and (5) the treatment of certain awards. Individuals may elect whether to avail themselves of the provisions of the bill. Thus, the provisions do not impose increased regulatory burdens on individuals. Certain provisions of the bill, such as the modifications to the student loan interest deduction and the permanent extension of the exclusion for employer-provided educational assistance, simplify the present-law rules and, therefore, reduce burdens on individuals electing to utilize the provision.

Similarly, to the extent the provisions of the bill affect businesses, businesses may generally elect whether to avail themselves of the provision of the bill, e.g., whether to contribute to an education IRA on behalf of a beneficiary. Certain provision of the bill, e.g., the permanent extension of the exclusion for employer-provided education assistance, will also provide simplification of the present-law rules for businesses that utilize such provisions. Thus, the bill does not impose increased regulatory burden on businesses.

Impact on personal privacy and paperwork

The provisions of the bill do not impact personal privacy. Individuals may elect whether to avail themselves of the provisions of the bill. Thus, the bill does not impose increased paperwork burdens on individuals. Individuals who elect to take advantage of the bill may in some cases need to keep records in order to demonstrate that they qualify for the tax treatment provided by the bill. In some cases the bill simplifies present law, thus reducing recordkeeping requirements.

B. Unfunded Mandates Statement

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

The Committee on Finance has reviewed the provisions of the bill as approved by the Committee on March 13, 2001. In accordance with the requirements of Public Law 104–4, the Committee has determined that no provisions of the bill contain Federal private sector mandates.

C. Tax Complexity Analysis

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

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have "widespread applicability" to individuals or small businesses.

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

In the opinion of the Committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill as reported by the Committee).

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