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107TH CONGRESS
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[Report No. 107–12]

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

IN THE SENATE OF THE UNITED STATES

APRIL 24, 2001

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

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

3 (a) **SHORT TITLE.**—This Act may be cited as the
 4 “Affordable Education Act of 2001”.

5 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
 6 wise expressly provided, whenever in this Act an amend-
 7 ment or repeal is expressed in terms of an amendment
 8 to, or repeal of, a section or other provision, the reference
 9 shall be considered to be made to a section or other provi-
 10 sion of the Internal Revenue Code of 1986.

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

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

TITLE I—EDUCATION SAVINGS INCENTIVES

Sec. 101. Modifications to education individual retirement accounts.

Sec. 102. Modifications to qualified tuition programs.

TITLE II—EDUCATIONAL ASSISTANCE

Sec. 201. Extension of exclusion for employer-provided educational assistance.

Sec. 202. Elimination of 60-month limit on student loan interest deduction.

Sec. 203. Exclusion of certain amounts received under the National Public
 Health Service Corps Scholarship Program and the F. Edward
 Hebert Armed Forces Health Professions Scholarship and Fi-
 nancial Assistance Program.

Sec. 204. Exclusion from income of certain amounts contributed to Coverdell
 education savings accounts.

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

Sec. 301. Additional increase in arbitrage rebate exception for governmental
 bonds used to finance educational facilities.

Sec. 302. Treatment of qualified public educational facility bonds as exempt fa-
 cility bonds.

1 **TITLE I—EDUCATION SAVINGS**
 2 **INCENTIVES**

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

5 (a) MAXIMUM ANNUAL CONTRIBUTIONS.—

6 (1) IN GENERAL.—Section 530(b)(1)(A)(iii)
 7 (defining education individual retirement account) is
 8 amended by striking “\$500” and inserting
 9 “\$2,000”.

10 (2) CONFORMING AMENDMENT.—Section
 11 4973(e)(1)(A) is amended by striking “\$500” and
 12 inserting “\$2,000”.

13 (b) MODIFICATION OF AGI LIMITS TO REMOVE
 14 MARRIAGE PENALTY.—Section 530(c)(1) (relating to re-
 15 duction in permitted contributions based on adjusted gross
 16 income) is amended—

17 (1) by striking “\$150,000” in subparagraph
 18 (A)(ii) and inserting “\$190,000”, and

19 (2) by striking “\$10,000” in subparagraph (B)
 20 and inserting “\$30,000”.

21 (c) TAX-FREE EXPENDITURES FOR ELEMENTARY
 22 AND SECONDARY SCHOOL EXPENSES.—

23 (1) IN GENERAL.—Section 530(b)(2) (defining
 24 qualified higher education expenses) is amended to
 25 read as follows:

1 “(2) QUALIFIED EDUCATION EXPENSES.—

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

4 “(i) qualified higher education ex-
5 penses (as defined in section 529(e)(3)),
6 and

7 “(ii) qualified elementary and sec-
8 ondary education expenses (as defined in
9 paragraph (4)).

10 “(B) QUALIFIED STATE TUITION PRO-
11 GRAMS.—Such term shall include any contribu-
12 tion to a qualified State tuition program (as de-
13 fined in section 529(b)) on behalf of the des-
14 ignated beneficiary (as defined in section
15 529(e)(1)); but there shall be no increase in the
16 investment in the contract for purposes of ap-
17 plying section 72 by reason of any portion of
18 such contribution which is not includible in
19 gross income by reason of subsection (d)(2).”.

20 (2) QUALIFIED ELEMENTARY AND SECONDARY
21 EDUCATION EXPENSES.—Section 530(b) (relating to
22 definitions and special rules) is amended by adding
23 at the end the following new paragraph:

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

1 “(A) IN GENERAL.—The term ‘qualified el-
 2 ementary and secondary education expenses’
 3 means—

4 “(i) expenses for tuition, fees, aca-
 5 demic tutoring, special needs services,
 6 books, supplies, computer equipment (in-
 7 cluding related software and services), and
 8 other equipment which are incurred in con-
 9 nection with the enrollment or attendance
 10 of the designated beneficiary of the trust
 11 as an elementary or secondary school stu-
 12 dent at a public, private, or religious
 13 school, and

14 “(ii) expenses for room and board,
 15 uniforms, transportation, and supple-
 16 mentary items and services (including ex-
 17 tended day programs) which are required
 18 or provided by a public, private, or reli-
 19 gious school in connection with such enroll-
 20 ment or attendance.

21 “(B) SCHOOL.—The term ‘school’ means
 22 any school which provides elementary education
 23 or secondary education (kindergarten through
 24 grade 12), as determined under State law.”.

1 (3) CONFORMING AMENDMENTS.—Section 530
2 is amended—

3 (A) by striking “higher” each place it ap-
4 pears in subsections (b)(1) and (d)(2), and

5 (B) by striking “HIGHER” in the heading
6 for subsection (d)(2).

7 (d) WAIVER OF AGE LIMITATIONS FOR CHILDREN
8 WITH SPECIAL NEEDS.—Section 530(b)(1) (defining edu-
9 cation individual retirement account) is amended by add-
10 ing at the end the following flush sentence:

11 “The age limitations in subparagraphs (A)(ii) and
12 (E), and paragraphs (5) and (6) of subsection (d),
13 shall not apply to any designated beneficiary with
14 special needs (as determined under regulations pre-
15 scribed by the Secretary).”.

16 (e) ENTITIES PERMITTED TO CONTRIBUTE TO AC-
17 COUNTS.—Section 530(c)(1) (relating to reduction in per-
18 mitted contributions based on adjusted gross income) is
19 amended by striking “The maximum amount which a con-
20 tributor” and inserting “In the case of a contributor who
21 is an individual, the maximum amount the contributor”.

22 (f) TIME WHEN CONTRIBUTIONS DEEMED MADE.—
23 (1) IN GENERAL.—Section 530(b) (relating to
24 definitions and special rules), as amended by sub-

1 section (c)(2), is amended by adding at the end the
 2 following new paragraph:

3 “(5) TIME WHEN CONTRIBUTIONS DEEMED
 4 MADE.—An individual shall be deemed to have made
 5 a contribution to an education individual retirement
 6 account on the last day of the preceding taxable year
 7 if the contribution is made on account of such tax-
 8 able year and is made not later than the time pre-
 9 scribed by law for filing the return for such taxable
 10 year (not including extensions thereof).”.

11 (2) EXTENSION OF TIME TO RETURN EXCESS
 12 CONTRIBUTIONS.—Subparagraph (C) of section
 13 530(d)(4) (relating to additional tax for distribu-
 14 tions not used for educational expenses) is
 15 amended—

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

18 “(i) such distribution is made before
 19 the first day of the sixth month of the tax-
 20 able year following the taxable year, and”,
 21 and

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

1 (g) COORDINATION WITH HOPE AND LIFETIME
 2 LEARNING CREDITS AND QUALIFIED TUITION PRO-
 3 GRAMS.—

4 (1) IN GENERAL.—Section 530(d)(2)(C) is
 5 amended to read as follows:

6 “(C) COORDINATION WITH HOPE AND
 7 LIFETIME LEARNING CREDITS AND QUALIFIED
 8 TUITION PROGRAMS.—For purposes of subpara-
 9 graph (A)—

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

14 “(I) as provided in section
 15 25A(g)(2), and

16 “(II) by the amount of such ex-
 17 penses which were taken into account
 18 in determining the credit allowed to
 19 the taxpayer or any other person
 20 under section 25A.

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

24 “(I) the aggregate distributions
 25 during such year to which subpara-

1 graph (A) and section 529(c)(3)(B)
 2 apply, exceed

3 “(II) the total amount of quali-
 4 fied education expenses (after the ap-
 5 plication of clause (i)) for such year,
 6 the taxpayer shall allocate such expenses
 7 among such distributions for purposes of
 8 determining the amount of the exclusion
 9 under subparagraph (A) and section
 10 529(c)(3)(B).”.

11 (2) CONFORMING AMENDMENTS.—

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

14 “(e) ELECTION NOT TO HAVE SECTION APPLY.—A
 15 taxpayer may elect not to have this section apply with re-
 16 spect to the qualified tuition and related expenses of an
 17 individual for any taxable year.”.

18 (B) Section 135(d)(2)(A) is amended by
 19 striking “allowable” and inserting “allowed”.

20 (C) Section 530(d)(2)(D) is amended—

21 (i) by striking “or credit”, and

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

24 (D) Section 4973(e)(1) is amended by add-
 25 ing “and” at the end of subparagraph (A), by

1 striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).

3 (h) RENAMING EDUCATION INDIVIDUAL RETIREMENT ACCOUNTS AS COVERDELL EDUCATION SAVINGS ACCOUNTS.—

6 (1) IN GENERAL.—

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

12 (B) Section 530(a) is amended—

13 (i) by striking “An education individual retirement account” and inserting “A Coverdell education savings account”, and

17 (ii) by striking “the education individual retirement account” and inserting “the Coverdell education savings account”.

20 (C) Section 530(b)(1) is amended—

21 (i) by striking “education individual retirement account” in the text and inserting “Coverdell education savings account”, and

1 (ii) by striking “EDUCATION INDIVIDUAL
2 RETIREMENT ACCOUNT” in the
3 heading and inserting “COVERDELL EDU-
4 CATION SAVINGS ACCOUNT”.

5 (D) Sections 530(d)(5) and 530(e) are
6 amended by striking “any education individual
7 retirement account” each place it appears and
8 inserting “any Coverdell education savings ac-
9 count”.

10 (E) The heading for section 530 is amend-
11 ed to read as follows:

12 **“SEC. 530. COVERDELL EDUCATION SAVINGS ACCOUNTS.”.**

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

“Sec. 530. Coverdell education savings accounts.”.

16 (2) CONFORMING AMENDMENTS.—

17 (A) The following provisions are amended
18 by striking “an education individual retire-
19 ment” each place it appears and inserting “a
20 Coverdell education savings”:

21 (i) Section 72(e)(9).

22 (ii) Section 135(c)(2)(C).

23 (iii) Section 4973(a).

24 (iv) Subsections (c) and (e) of section
25 4975.

1 (B) The following provisions are amended
 2 by striking “education individual retirement”
 3 each place it appears in the text and inserting
 4 “Coverdell education savings”:

5 (i) Section 26(b)(2)(E).

6 (ii) Section 4973(e).

7 (iii) Section 6693(a)(2)(D).

8 (C) The headings for the following provi-
 9 sions are amended by striking “EDUCATION IN-
 10 DIVIDUAL RETIREMENT ACCOUNTS” each place
 11 it appears and inserting “COVERDELL EDU-
 12 CATION SAVINGS ACCOUNTS”.

13 (i) Section 72(e)(9).

14 (ii) Section 135(c)(2)(C).

15 (iii) Section 4973(e).

16 (iv) Section 4975(c)(5).

17 (i) EFFECTIVE DATES.—

18 (1) IN GENERAL.—Except as provided in para-
 19 graph (2), the amendments made by this section
 20 shall apply to taxable years beginning after Decem-
 21 ber 31, 2001.

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

1 **SEC. 102. MODIFICATIONS TO QUALIFIED TUITION PRO-**
 2 **GRAMS.**

3 (a) ELIGIBLE EDUCATIONAL INSTITUTIONS PER-
 4 MITTED TO MAINTAIN QUALIFIED TUITION PROGRAMS.—

5 (1) IN GENERAL.—Section 529(b)(1) (defining
 6 qualified State tuition program) is amended—

7 (A) by inserting “or by 1 or more eligible
 8 educational institutions” after “maintained by a
 9 State or agency or instrumentality thereof” in
 10 the matter preceding subparagraph (A), and

11 (B) by adding at the end the following new
 12 flush sentence:

13 “Except to the extent provided in regulations, a pro-
 14 gram established and maintained by 1 or more eligi-
 15 ble educational institutions shall not be treated as a
 16 qualified tuition program unless such program has
 17 received a ruling or determination that such pro-
 18 gram meets the applicable requirements for a
 19 qualified tuition program.”.

20 (2) PRIVATE QUALIFIED TUITION PROGRAMS
 21 LIMITED TO BENEFIT PLANS.—Clause (ii) of section
 22 529(b)(1)(A) is amended by inserting “in the case of
 23 a program established and maintained by a State or
 24 agency or instrumentality thereof,” before “may
 25 make”.

26 (3) CONFORMING AMENDMENTS.—

1 (A) Sections 72(e)(9), 135(c)(2)(C),
 2 135(d)(1)(D), 529, 530(b)(2)(B), 4973(e), and
 3 6693(a)(2)(C) are amended by striking “quali-
 4 fied State tuition” each place it appears and in-
 5 serting “qualified tuition”.

6 (B) The headings for sections 72(e)(9) and
 7 135(c)(2)(C) are amended by striking “QUALI-
 8 FIED STATE TUITION” each place it appears
 9 and inserting “QUALIFIED TUITION”.

10 (C) The headings for sections 529(b) and
 11 530(b)(2)(B) are amended by striking “QUALI-
 12 FIED STATE TUITION” each place it appears
 13 and inserting “QUALIFIED TUITION”.

14 (D) The heading for section 529 is amend-
 15 ed by striking “**STATE**”.

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

19 (b) EXCLUSION FROM GROSS INCOME OF EDU-
 20 CATION DISTRIBUTIONS FROM QUALIFIED TUITION PRO-
 21 GRAMS.—

22 (1) IN GENERAL.—Section 529(c)(3)(B) (relat-
 23 ing to distributions) is amended to read as follows:

1 “(B) DISTRIBUTIONS FOR QUALIFIED
2 HIGHER EDUCATION EXPENSES.—For purposes
3 of this paragraph—

4 “(i) IN-KIND DISTRIBUTIONS.—No
5 amount shall be includible in gross income
6 under subparagraph (A) by reason of a
7 distribution which consists of providing a
8 benefit to the distributee which, if paid for
9 by the distributee, would constitute pay-
10 ment of a qualified higher education ex-
11 pense.

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

15 “(I) such distributions do not ex-
16 ceed the qualified higher education ex-
17 penses (reduced by expenses described
18 in clause (i)), no amount shall be in-
19 cludible in gross income, and

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

1 “(iii) EXCEPTION FOR INSTITUTIONAL
 2 PROGRAMS.—In the case of any taxable
 3 year beginning before January 1, 2004,
 4 clauses (i) and (ii) shall not apply with re-
 5 spect to any distribution during such tax-
 6 able year under a qualified tuition program
 7 established and maintained by 1 or more
 8 eligible educational institutions.

9 “(iv) TREATMENT AS DISTRIBU-
 10 TIONS.—Any benefit furnished to a des-
 11 ignated beneficiary under a qualified tui-
 12 tion program shall be treated as a distribu-
 13 tion to the beneficiary for purposes of this
 14 paragraph.

15 “(v) COORDINATION WITH HOPE AND
 16 LIFETIME LEARNING CREDITS.—The total
 17 amount of qualified higher education ex-
 18 penses with respect to an individual for the
 19 taxable year shall be reduced—

20 “(I) as provided in section
 21 25A(g)(2), and

22 “(II) by the amount of such ex-
 23 penses which were taken into account
 24 in determining the credit allowed to

1 the taxpayer or any other person
2 under section 25A.

3 “(vi) COORDINATION WITH COVER-
4 DELL EDUCATION SAVINGS ACCOUNTS.—If,
5 with respect to an individual for any tax-
6 able year—

7 “(I) the aggregate distributions
8 to which clauses (i) and (ii) and sec-
9 tion 530(d)(2)(A) apply, exceed

10 “(II) the total amount of quali-
11 fied higher education expenses other-
12 wise taken into account under clauses
13 (i) and (ii) (after the application of
14 clause (v)) for such year,

15 the taxpayer shall allocate such expenses
16 among such distributions for purposes of
17 determining the amount of the exclusion
18 under clauses (i) and (ii) and section
19 530(d)(2)(A).”.

20 (2) CONFORMING AMENDMENTS.—

21 (A) Section 135(d)(2)(B) is amended by
22 striking “the exclusion under section
23 530(d)(2)” and inserting “the exclusions under
24 sections 529(c)(3)(B) and 530(d)(2)”.

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

3 (c) ROLLOVER TO DIFFERENT PROGRAM FOR BEN-
 4 EFIT OF SAME DESIGNATED BENEFICIARY.—Section
 5 529(e)(3)(C) (relating to change in beneficiaries) is
 6 amended—

7 (1) by striking “transferred to the credit” in
 8 clause (i) and inserting “transferred—

9 “(I) to another qualified tuition
 10 program for the benefit of the des-
 11 ignated beneficiary, or

12 “(II) to the credit”,

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

15 “(iii) LIMITATION ON CERTAIN ROLL-
 16 OVERS.—Clause (i)(I) shall only apply to
 17 the first 3 transfers with respect to a des-
 18 ignated beneficiary.”, and

19 (3) by inserting “OR PROGRAMS” after “BENE-
 20 FICIARIES” in the heading.

21 (d) MEMBER OF FAMILY INCLUDES FIRST COUS-
 22 IN.—Section 529(e)(2) (defining member of family) is
 23 amended by striking “and” at the end of subparagraph
 24 (B), by striking the period at the end of subparagraph

1 (C) and by inserting “; and”, and by adding at the end
 2 the following new subparagraph:

3 “(D) any first cousin of such beneficiary.”.

4 (e) ADJUSTMENT OF LIMITATION ON ROOM AND
 5 BOARD DISTRIBUTIONS.—Section 529(e)(3)(B)(ii) is
 6 amended to read as follows:

7 “(ii) LIMITATION.—The amount treat-
 8 ed as qualified higher education expenses
 9 by reason of clause (i) shall not exceed—

10 “(I) the allowance (applicable to
 11 the student) for room and board in-
 12 cluded in the cost of attendance (as
 13 defined in section 472 of the Higher
 14 Education Act of 1965 (20 U.S.C.
 15 1087ll), as in effect on the date of the
 16 enactment of the Affordable Edu-
 17 cation Act of 2001) as determined by
 18 the eligible educational institution for
 19 such period, or

20 “(II) if greater, the actual invoice
 21 amount the student residing in hous-
 22 ing owned or operated by the eligible
 23 educational institution is charged by
 24 such institution for room and board
 25 costs for such period.”.

1 (f) TECHNICAL AMENDMENTS.—Section
2 529(c)(3)(D) is amended—

3 (1) by inserting “except to the extent provided
4 by the Secretary,” before “all distributions” in
5 clause (ii), and

6 (2) by inserting “except to the extent provided
7 by the Secretary,” before “the value” in clause (iii).

8 (g) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to taxable years beginning after
10 December 31, 2001.

11 **TITLE II—EDUCATIONAL** 12 **ASSISTANCE**

13 **SEC. 201. PERMANENT EXTENSION OF EXCLUSION FOR EM-** 14 **PLOYER-PROVIDED EDUCATIONAL ASSIST-** 15 **ANCE.**

16 (a) IN GENERAL.—Section 127 (relating to exclusion
17 for educational assistance programs) is amended by strik-
18 ing subsection (d) and by redesignating subsection (e) as
19 subsection (d).

20 (b) REPEAL OF LIMITATION ON GRADUATE EDU-
21 CATION.—The last sentence of section 127(c)(1) is amend-
22 ed by striking “, and such term also does not include any
23 payment for, or the provision of any benefits with respect
24 to, any graduate level course of a kind normally taken by
25 an individual pursuing a program leading to a law, busi-

ness, medical, or other advanced academic or professional degree”.

(c) CONFORMING AMENDMENT.—Section 51A(b)(5)(B)(iii) is amended by striking “or would be so excludable but for section 127(d)”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to expenses relating to courses beginning after December 31, 2001.

**SEC. 202. ELIMINATION OF 60-MONTH LIMIT AND INCREASE
IN INCOME LIMITATION ON STUDENT LOAN
INTEREST DEDUCTION.**

(a) ELIMINATION OF 60-MONTH LIMIT.—

(1) IN GENERAL.—Section 221 (relating to interest on education loans), as amended by section 102(b)(2)(B), is amended by striking subsection (d) and by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

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

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to any loan interest paid after December 31, 2001, in taxable years ending after such date.

(b) INCREASE IN INCOME LIMITATION.—

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

4 “(i) the excess of—

5 “(I) the taxpayer’s modified ad-
6 justed gross income for such taxable
7 year, over

8 “(II) \$50,000 (\$100,000 in the
9 case of a joint return), bears to

10 “(ii) \$15,000 (\$30,000 in the case of
11 a joint return).”.

12 (2) CONFORMING AMENDMENT.—Section
13 221(g)(1) is amended by striking “\$40,000 and
14 \$60,000 amounts” and inserting “\$50,000 and
15 \$100,000 amounts”.

16 (3) EFFECTIVE DATE.—The amendments made
17 by this subsection shall apply to taxable years end-
18 ing after December 31, 2001.

1 **SEC. 203. EXCLUSION OF CERTAIN AMOUNTS RECEIVED**
 2 **UNDER THE NATIONAL HEALTH SERVICE**
 3 **CORPS SCHOLARSHIP PROGRAM AND THE F.**
 4 **EDWARD HEBERT ARMED FORCES HEALTH**
 5 **PROFESSIONS SCHOLARSHIP AND FINANCIAL**
 6 **ASSISTANCE PROGRAM.**

7 (a) IN GENERAL.—Section 117(c) (relating to the ex-
 8 clusion from gross income amounts received as a qualified
 9 scholarship) is amended—

10 (1) by striking “Subsections (a)” and inserting
 11 the following:

12 “(1) IN GENERAL.—Except as provided in para-
 13 graph (2), subsections (a)”, and

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

16 “(2) EXCEPTIONS.—Paragraph (1) shall not
 17 apply to any amount received by an individual
 18 under—

19 “(A) the National Health Service Corps
 20 Scholarship Program under section
 21 338A(g)(1)(A) of the Public Health Service
 22 Act, or

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

1 (b) EFFECTIVE DATE.—The amendments made by
 2 subsection (a) shall apply to amounts received in taxable
 3 years beginning after December 31, 2001.

4 **SEC. 204. EXCLUSION FROM INCOME OF CERTAIN**
 5 **AMOUNTS CONTRIBUTED TO COVERDELL**
 6 **EDUCATION SAVINGS ACCOUNTS.**

7 (a) IN GENERAL.—Section 127 (relating to education
 8 assistance programs), as amended by section 201(a), is
 9 amended by redesignating subsection (d) as subsection (e)
 10 and by inserting after subsection (c) the following new
 11 subsection:

12 “(d) QUALIFIED COVERDELL EDUCATION SAVINGS
 13 ACCOUNT CONTRIBUTIONS.—

14 “(1) IN GENERAL.—Gross income of an em-
 15 ployee shall not include amounts paid or incurred by
 16 the employer for a qualified Coverdell education sav-
 17 ings account contribution on behalf of the employee.

18 “(2) QUALIFIED COVERDELL EDUCATION SAV-
 19 INGS ACCOUNT CONTRIBUTION.—For purposes of
 20 this subsection—

21 “(A) IN GENERAL.—The term ‘qualified
 22 Coverdell education savings account contribu-
 23 tion’ means an amount contributed pursuant to
 24 an educational assistance program described in
 25 subsection (b) by an employer to a Coverdell

1 education savings account established and
2 maintained for the benefit of an employee or
3 the employee's spouse, or any lineal descendent
4 of either.

5 “(B) DOLLAR LIMIT.—A contribution by
6 an employer to a Coverdell education savings
7 account shall not be treated as a qualified
8 Coverdell education savings account contribu-
9 tion to the extent that the contribution, when
10 added to prior contributions by the employer
11 during the calendar year to Coverdell education
12 savings accounts established and maintained for
13 the same beneficiary, exceeds \$500.

14 “(3) SPECIAL RULES.—

15 “(A) CONTRIBUTIONS NOT TREATED AS
16 EDUCATIONAL ASSISTANCE IN DETERMINING
17 MAXIMUM EXCLUSION.—For purposes of sub-
18 section (a)(2), qualified Coverdell education sav-
19 ings account contributions shall not be treated
20 as educational assistance.

21 “(B) SELF-EMPLOYED NOT TREATED AS
22 EMPLOYEE.—For purposes of this subsection,
23 subsection (c)(2) shall not apply.

24 “(C) ADJUSTED GROSS INCOME PHASEOUT
25 OF ACCOUNT CONTRIBUTION NOT APPLICABLE

1 TO INDIVIDUAL EMPLOYERS.—The limitation
 2 under section 530(c) shall not apply to a quali-
 3 fied Coverdell education savings account con-
 4 tribution made by an employer who is an indi-
 5 vidual.

6 “(D) CONTRIBUTIONS NOT TREATED AS
 7 AN INVESTMENT IN THE CONTRACT.—For pur-
 8 poses of section 530(d), a qualified Coverdell
 9 education savings account contribution shall not
 10 be treated as an investment in the contract.”.

11 (b) REPORTING REQUIREMENT.—Section 6051(a)
 12 (relating to receipts for employees) is amended by striking
 13 “and” at the end of paragraph (10), by striking the period
 14 at the end of paragraph (11) and inserting “, and”, and
 15 by adding at the end the following new paragraph:

16 “(12) the amount of any qualified Coverdell
 17 education savings account contribution under section
 18 127(d) with respect to such employee.”.

19 (c) CONFORMING AMENDMENT.—Section
 20 221(e)(2)(A) is amended by inserting “(other than under
 21 subsection (d) thereof)” after “section 127”.

22 (d) EFFECTIVE DATE.—The amendments made by
 23 this section shall apply to contributions made in taxable
 24 years beginning after December 31, 2001.

1 **TITLE III—LIBERALIZATION OF**
 2 **TAX-EXEMPT FINANCING**
 3 **RULES FOR PUBLIC SCHOOL**
 4 **CONSTRUCTION**

5 **SEC. 301. ADDITIONAL INCREASE IN ARBITRAGE REBATE**
 6 **EXCEPTION FOR GOVERNMENTAL BONDS**
 7 **USED TO FINANCE EDUCATIONAL FACILI-**
 8 **TIES.**

9 (a) IN GENERAL.—Section 148(f)(4)(D)(vii) (relat-
 10 ing to increase in exception for bonds financing public
 11 school capital expenditures) is amended by striking
 12 “\$5,000,000” the second place it appears and inserting
 13 “\$10,000,000”.

14 (b) EFFECTIVE DATE.—The amendment made by
 15 subsection (a) shall apply to obligations issued in calendar
 16 years beginning after December 31, 2001.

17 **SEC. 302. TREATMENT OF QUALIFIED PUBLIC EDU-**
 18 **CATIONAL FACILITY BONDS AS EXEMPT FA-**
 19 **CILITY BONDS.**

20 (a) TREATMENT AS EXEMPT FACILITY BOND.—Sub-
 21 section (a) of section 142 (relating to exempt facility
 22 bond) is amended by striking “or” at the end of paragraph
 23 (11), by striking the period at the end of paragraph (12)
 24 and inserting “, or”, and by adding at the end the fol-
 25 lowing new paragraph:

1 “(13) qualified public educational facilities.”.

2 (b) QUALIFIED PUBLIC EDUCATIONAL FACILI-
3 TIES.—Section 142 (relating to exempt facility bond) is
4 amended by adding at the end the following new sub-
5 section:

6 “(k) QUALIFIED PUBLIC EDUCATIONAL FACILI-
7 TIES.—

8 “(1) IN GENERAL.—For purposes of subsection
9 (a)(13), the term ‘qualified public educational facil-
10 ity’ means any school facility which is—

11 “(A) part of a public elementary school or
12 a public secondary school, and

13 “(B) owned by a private, for-profit cor-
14 poration pursuant to a public-private partner-
15 ship agreement with a State or local edu-
16 cational agency described in paragraph (2).

17 “(2) PUBLIC-PRIVATE PARTNERSHIP AGREE-
18 MENT DESCRIBED.—A public-private partnership
19 agreement is described in this paragraph if it is an
20 agreement—

21 “(A) under which the corporation agrees—

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

1 “(ii) at the end of the term of the
2 agreement, to transfer the school facility to
3 such agency for no additional consider-
4 ation, and

5 “(B) the term of which does not exceed the
6 term of the issue to be used to provide the
7 school facility.

8 “(3) SCHOOL FACILITY.—For purposes of this
9 subsection, the term ‘school facility’ means—

10 “(A) any school building,

11 “(B) any functionally related and subordi-
12 nate facility and land with respect to such
13 building, including any stadium or other facility
14 primarily used for school events, and

15 “(C) any property, to which section 168
16 applies (or would apply but for section 179), for
17 use in a facility described in subparagraph (A)
18 or (B).

19 “(4) PUBLIC SCHOOLS.—For purposes of this
20 subsection, the terms ‘elementary school’ and ‘sec-
21 ondary school’ have the meanings given such terms
22 by section 14101 of the Elementary and Secondary
23 Education Act of 1965 (20 U.S.C. 8801), as in ef-
24 fect on the date of the enactment of this subsection.

1 “(5) ANNUAL AGGREGATE FACE AMOUNT OF
2 TAX-EXEMPT FINANCING.—

3 “(A) IN GENERAL.—An issue shall not be
4 treated as an issue described in subsection
5 (a)(13) if the aggregate face amount of bonds
6 issued by the State pursuant thereto (when
7 added to the aggregate face amount of bonds
8 previously so issued during the calendar year)
9 exceeds an amount equal to the greater of—

10 “(i) \$10 multiplied by the State popu-
11 lation, or

12 “(ii) \$5,000,000.

13 “(B) ALLOCATION RULES.—

14 “(i) IN GENERAL.—Except as other-
15 wise provided in this subparagraph, the
16 State may allocate the amount described in
17 subparagraph (A) for any calendar year in
18 such manner as the State determines ap-
19 propriate.

20 “(ii) RULES FOR CARRYFORWARD OF
21 UNUSED LIMITATION.—A State may elect
22 to carry forward an unused limitation for
23 any calendar year for 3 calendar years fol-
24 lowing the calendar year in which the un-
25 used limitation arose under rules similar to

1 the rules of section 146(f), except that the
 2 only purpose for which the carryforward
 3 may be elected is the issuance of exempt
 4 facility bonds described in subsection
 5 (a)(13).”.

6 (c) EXEMPTION FROM GENERAL STATE VOLUME
 7 CAPS.—Paragraph (3) of section 146(g) (relating to ex-
 8 ception for certain bonds) is amended—

9 (1) by striking “or (12)” and inserting “(12),
 10 or (13)”, and

11 (2) by striking “and environmental enhance-
 12 ments of hydroelectric generating facilities” and in-
 13 serting “environmental enhancements of hydro-
 14 electric generating facilities, and qualified public
 15 educational facilities”.

16 (d) EXEMPTION FROM LIMITATION ON USE FOR
 17 LAND ACQUISITION.—Section 147(h) (relating to certain
 18 rules not to apply to mortgage revenue bonds, qualified
 19 student loan bonds, and qualified 501(c)(3) bonds) is
 20 amended by adding at the end the following new para-
 21 graph:

22 “(3) EXEMPT FACILITY BONDS FOR QUALIFIED
 23 PUBLIC-PRIVATE SCHOOLS.—Subsection (c) shall not
 24 apply to any exempt facility bond issued as part of

1 an issue described in section 142(a)(13) (relating to
2 qualified public educational facilities).”.

3 (e) CONFORMING AMENDMENT.—The heading for
4 section 147(h) is amended by striking “MORTGAGE REV-
5 ENUE BONDS, QUALIFIED STUDENT LOAN BONDS, AND
6 QUALIFIED 501(c)(3) BONDS” and inserting “CERTAIN
7 BONDS”.

8 (f) EFFECTIVE DATE.—The amendments made by
9 this section shall apply to bonds issued after December
10 31, 2001.

Calendar No. 34

107TH CONGRESS
1ST SESSION

S. 763

[Report No. 107-12]

A BILL

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

APRIL 24, 2001

Read twice and placed on the calendar