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107TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPORT
107–650

BACK TO SCHOOL TAX RELIEF ACT OF 2002

SEPTEMBER 11, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 5193]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 5193) to amend the Internal Revenue Code of 1986 to allow a deduction to certain taxpayers for elementary and secondary education expenses, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Back to School Tax Relief Act of 2002".

SEC. 2. DEDUCTION FOR ELEMENTARY AND SECONDARY EDUCATION EXPENSES.

(a) IN GENERAL.—Section 222 of the Internal Revenue Code of 1986 (relating to qualified tuition and related expenses) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

"(1) IN GENERAL.—In the case of a taxpayer whose adjusted gross income for the taxable year does not exceed $20,000 ($40,000 in the case of a joint return), qualified tuition and related expenses shall include the qualified elementary and secondary education expenses paid by the taxpayer during the taxable year.

"(2) DOLLAR LIMITATION.—

"(A) IN GENERAL.—For purposes of paragraph (1), the amount of qualified elementary and secondary education expenses taken into account for a taxable year under this section by reason of paragraph (1) shall not exceed $3,000.

"(B) COORDINATION.—For purposes of this section—

"(i) the dollar limitations under subsection (b) shall not apply to qualified elementary and secondary education expenses, and

"(ii) qualified elementary and secondary education expenses shall not be taken into account for purposes of applying the applicable dollar limit under subsection (b).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—The term 'qualified elementary and secondary education expenses' has the same meaning given to such term by section 530(b)(4), except that—

"(i) such term shall not include room and board,

"(ii) subparagraph (A)(i) thereof shall be applied by including enrollment or attendance at a home school (as determined under State law), and

"(iii) such section shall be applied—

"(I) by substituting 'individual' for 'designated beneficiary of the trust' in subparagraph (A)(i) thereof,

"(II) by substituting 'an individual with special needs' for 'a special needs beneficiary' in subparagraph (A)(i) thereof, and

"(III) by substituting 'individual and the individual's family during any of the years the individual' for 'beneficiary and the beneficiary's family during any of the years the beneficiary' in subparagraph (A)(iii) thereof.

"(B) ADJUSTED GROSS INCOME.—Adjusted gross income shall be determined under subsection (b)(2)(C).".

(b) TECHNICAL AMENDMENT.—The heading of section 62(a)(18) of such Code is amended by striking "HIGHER EDUCATION" and inserting "QUALIFIED TUITION AND RELATED".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 5193, as amended (the "Back to School Tax Relief Act of 2002") provides tax relief to assist individuals in meeting the elementary and secondary education needs of their dependents.

The bill provides an above-the-line deduction for individuals with certain income levels for certain qualified elementary and secondary education expenses.

B. Background and Need for Legislation

The provisions approved by the Committee reflect the need to improve the affordability of elementary and secondary education for low-income families and to improve educational opportunities for these families.

C. Legislative History

COMMITTEE ACTION

The Committee on Ways and Means marked up the provisions of the bill on September 5, 2002, and approved the provisions, as amended, on September 5, 2002, by a rollcall vote of 22 yeas to 14 nays (with a quorum being present).

II. EXPLANATION OF THE BILL

A. Extend Tuition Deduction to Qualified Elementary and Secondary Education Expenses

PRESENT LAW

An individual is allowed an above-the-line deduction for qualified tuition and related expenses for higher education paid by the individual during a taxable year.[1] Qualified tuition and related expenses are tuition and fees required for the enrollment or attendance of the taxpayer, the taxpayer's spouse, or any dependent of the taxpayer with respect to whom the taxpayer may claim a personal exemption, at an eligible institution of higher education for courses of instruction of such individual at such institution. The deduction generally is not available for expenses with respect to a course or education involving sports, games, or hobbies, and is not available for student activity fees, athletic fees, insurance expenses, or other expenses unrelated to an individual's academic course of instruction. The expenses must be in connection with enrollment at an institution of higher education during the taxable year, or with an academic term beginning during the taxable year or during the first three months of the next taxable year. The deduction is not available for tuition and related expenses paid for elementary or secondary education.

For taxable years beginning in 2002 or 2003, the maximum deduction is $3,000 for an individual whose adjusted gross income for the taxable year does not exceed $65,000 ($130,000 in the case of a joint return). For taxable years beginning in 2004 or 2005, the maximum deduction is $4,000 for an individual whose adjusted gross income for the taxable year does not exceed $65,000 ($130,000 in the case of a joint return), or $2,000 for other individuals whose adjusted gross income does not exceed $80,000 ($160,000 in the case of a joint return). No deduction is allowed an individual whose adjusted gross income exceeds the relevant adjusted gross income limitations, a married individual who does not file a joint return, or an individual with respect to whom a personal exemption deduction may be claimed by another taxpayer for the taxable year.

[1] Sec. 222. (All section references are to the Internal Revenue Code of 1986.)

The amount of qualified tuition and related expenses must be reduced by certain scholarships, educational assistance allowances, and other amounts paid for the benefit of such individual,[2] and by the amount of such expenses taken into account for purposes of determining any exclusion from gross income of: (1) income from certain United States Savings Bonds used to pay higher education tuition and fees; and (2) income from a Coverdell education savings account.[3] Additionally, such expenses must be reduced by the earnings portion (but not the return of principal) of distributions from a section 529 qualified tuition program if exclusion under section 529 is claimed with respect to expenses eligible for an exclusion under section 222. No deduction is allowed for any expense for which a deduction is otherwise allowed or with respect to an individual for whom a Hope Scholarship Credit or Lifetime Learning Credit is elected for such taxable year.

The deduction is not available for taxable years beginning after December 31, 2005.

REASONS FOR CHANGE

Present law limits the above-the-line deduction to certain higher education expenses. The Committee believes that taxpayers with incomes below certain levels and who incur certain education expenses should be eligible for an above-the-line deduction with respect to such expenses, whether they are incurred for elementary and secondary education or for higher education.

EXPLANATION OF PROVISION

The proposal would extend the above-the-line deduction to "qualified elementary and secondary education expenses" paid in connection with an "eligible K–12 student." Qualified elementary and secondary education expenses generally would be defined under the present-law rules applicable to Coverdell education savings accounts[4] and would include (1) expenses for tuition, fees, academic tutoring, special needs services,[5] books, supplies, and other equipment that are incurred in connection with enrollment or attendance at a public, private, religious, or home school as determined under State law that provides elementary or secondary education as determined under State law; (2) expenses for uniforms, transportation, and supplementary items and services (including extended day programs) that are required or provided by such a school (other than a home school) in connection with such enrollment or attendance; and (3) expenses for the purchase of any computer technology or equipment or Internet access and related services, if such items are to be used by the student or the student's family during any of the years the student is in school.[6] Qualified

[2] Sec. 222(d)(1) and sec. 25A(g)(2).
[3] Sec. 222(c).
[4] Sec. 530(b)(4).
[5] For this purpose, special needs services generally would include services required because a physical, mental, or emotional condition (including learning disability) of the student requires additional time of the student in order to complete his or her education.
[6] Qualified elementary and secondary expenses would not include expenses for computer software designed for sports, games, or hobbies unless the software is predominantly educational in nature.

elementary and secondary education expenses would not include room and board.[7]

An eligible K–12 student would be an individual with respect to whom the taxpayer is allowed to claim a personal exemption for the taxable year and who is enrolled in a school that provides elementary education or secondary education (kindergarten through grade 12) as determined under State law (including a home school). The expenses would be required to be in connection with enrollment at a school during the taxable year, or with an academic term beginning during the taxable year or during the first three months of the next taxable year.

The proposal would retain the present-law maximum deduction and adjusted gross income limitations applicable to qualified tuition and related expenses for higher education, and provide a separate maximum deduction and adjusted gross income limitation applicable to the taxpayer's qualified elementary and secondary education expenses. A taxpayer's maximum deduction for qualified elementary and secondary education expenses for a taxable year would be $3,000 for an individual whose adjusted gross income for the taxable year does not exceed $20,000 ($40,000 in the case of a joint return).[8]

EFFECTIVE DATE

The provision would be effective for taxable years beginning after December 31, 2002, and before January 1, 2006.

III. VOTES OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made concerning the votes of the Committee on Ways and Means in its consideration of the bill, H.R. 5193.

MOTION TO REPORT THE BILL

The bill, H.R. 5193, as amended, was ordered favorably reported by a rollcall vote of 22 yeas to 14 nays (with a quorum being present). The vote was as follows:

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Thomas	X			Mr. Rangel		X	
Mr. Crane	X			Mr. Stark		X	
Mr. Shaw	X			Mr. Matsui		X	
Mrs. Johnson		X		Mr. Coyne		X	
Mr. Houghton	X			Mr. Levin		X	
Mr. Herger	X			Mr. Cardin		X	
Mr. McCrery	X			Mr. McDermott		X	
Mr. Camp	X			Mr. Kleczka		X	
Mr. Ramstad	X			Mr. Lewis (GA)		X	
Mr. Nussle	X			Mr. Neal		X	
Mr. Johnson	X			Mr. McNulty			
Ms. Dunn	X			Mr. Jefferson			
Mr. Collins		X		Mr. Tanner		X	

[7] The present-law rules regarding coordination of the deduction for qualified tuition and related expenses with other education incentives also would apply to qualified elementary and secondary expenses.

[8] No deduction would be allowed an individual whose adjusted gross income exceeds the relevant adjusted gross income limitation, a married individual who does not file a joint return, or an individual with respect to whom a personal exemption deduction may be claimed by another taxpayer for the taxable year.

Representatives	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Portman	X			Mr. Becerra			
Mr. English	X			Mrs. Thurman			
Mr. Watkins	X			Mr. Doggett		X	
Mr. Hayworth	X			Mr. Pomeroy	X		
Mr. Weller							
Mr. Hulshof	X						
Mr. McInnis	X						
Mr. Lewis (KY)	X						
Mr. Foley	X						
Mr. Brady	X						
Mr. Ryan	X						

VOTE ON PROCEDURAL MOTION

A motion by Mr. McCrery to table the appeal of the ruling of the chair to sustain the point of order that the Rangel amendment was not germane was agreed to by a rollcall vote of 23 yeas to 12 nays. The vote was as follows:

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

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of the rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the revenue provisions of the bill, H.R. 5193 as reported.

The bill is estimated to have the following effects on budget receipts for fiscal years 2003–2007:

ESTIMATED REVENUE EFFECTS OF THE CHAIRMAN'S AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H.R. 5193, THE "BACK TO SCHOOL TAX RELIEF ACT OF 2002" SCHEDULED FOR MARKUP BY THE COMMITTEE ON WAYS AND MEANS ON JULY 25, 2002

[Fiscal years 2003–2012, in millions of dollars]

Provision	Effective	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2003–07	2003–12
1. Extend Section 222 Tuition Deduction to Allow up to a $3,000 Above-the-Line Deduction for Qualified Elementary and Secondary Education Expenses Incurred by Eligible Taxpayers With AGI No Greater Than $20,000 ($40,000 for Joint Returns)	tyba 12/31/02 & tybb 1/1/06	−1,189	−1,622	−1,672	−421	.....	.....	.....	.....	.....	.....	−4,903	−4,903
2. Clarify that the Extension of the Section 222 Tuition Deduction Applies to Special Needs Studenst	tyba 12/31/02 & tybb 1/1/06	No revenue effect											
Net total	.....	−1,189	−1,622	−1,672	−421	.....	.....	.....	.....	.....	.....	−4,903	−4,903

Legend for "Effective" column: tyba = taxable years beginning after; tybb = taxable years beginning before.

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

B. Statement Regarding New Budget Authority and Tax Expenditures Budget Authority

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority (as detailed in the statement by the Congressional Budget Office ("CBO"); see Part IV.C., below). The Committee further states that the revenue reducing income tax provisions involve increased tax expenditures. (See amounts in table in Part IV.A., above.)

C. Cost Estimate Prepared by the Congressional Budget Office

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

U.S. Congress,
Congressional Budget Office,
Washington, DC, September 9, 2002.

Hon. William "Bill" M. Thomas,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 5193, the Back to School Tax Relief Act of 2002.

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

Sincerely,

Barry B. Anderson
(For Dan L. Crippen, Director).

Enclosure.

H.R. 5193—Back to School Tax Relief Act of 2002

Summary: H.R. 5193 would provide individual taxpayers with a deduction for certain education expenses through tax year 2005. The deduction would be "above the line." Such deductions are statutorily allowed subtractions from gross income that are used to compute adjusted gross income (AGI) and may be taken by both taxpayers who itemize their deductions and those who do not. Eligible single taxpayers whose AGI is no greater than $20,000 (no greater than $40,000 for joint filers) would be allowed to deduct up to $3,000 of qualified elementary and secondary education expenditures.

The Joint Committee on Taxation (JCT) estimates that enacting H.R. 5193 would reduce revenues by $1.2 billion in 2003 and by $4.9 billion over the 2003–2007 period. Because the bill would affect receipts, pay-as-you-go procedures would apply. JCT has determined that 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.

Estimated cost to the Federal Government: The estimated bugetary impact of H.R. 5193 is shown in the following table. All revenue estimates of H.R. 5193 were provided by JCT.

	By fical year, in millions of dollars—				
	2003	2004	2005	2006	2007
CHANGES IN REVENUES					
Estimated revenues	1,189	−1,622	−1,672	−421	0

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in governmental receipts that are subject to pay-as-you-go procedures are shown in the following table.

	By fiscal year, in millions of dollars—										
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Changes in outlays	0	−1,189	−1,622	−1,672	−421	0	0	0	0	0	0
Changes in receipts	Not applicable										

Intergovernmental and private-sector impact: JCT has determined that 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: Annie Bartsch.

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

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

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee advises that it was a result of the Committee's oversight review concerning the tax burden on individual taxpayers and tax-related education issues that the Committee concluded that it is appropriate and timely to enact the revenue provisions included in the bill as reported.

B. Statement of General Performance Goals and Objectives

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

C. Constitutional Authority Statement

With respect to clause 3(d)(1) of the rule XIII of the Rules of the House of Representatives (relating to Constitutional Authority), the Committee states that the Committee's action in reporting this bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises * * *"), and from the 16th Amendment to the Constitution.

D. Information Relating to Unfunded Mandates

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

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

E. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increases within the meaning of the rule.

F. Tax Complexity Analysis

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

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

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

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

INTERNAL REVENUE CODE OF 1986

* * * * * * *

Subtitle A—Income Taxes

* * * * * * *

CHAPTER 1—NORMAL TAXES AND SURTAXES

* * * * * * *

Subchapter B—Computation of Taxable Income

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

* * * * * * *

SEC. 62. ADJUSTED GROSS INCOME DEFINED.

(a) GENERAL RULE.—For purposes of this subtitle, the term "adjusted gross income" means, in the case of an individual, gross income minus the following deductions:

(1) * * *

* * * * * * *

(18) **[**HIGHER EDUCATION**]** *QUALIFIED TUITION AND RELATED* EXPENSES.—The deduction allowed by section 222.

* * * * * * *

PART VII—ADDITIONAL ITEMIZED DEDUCTIONS FOR INDIVIDUALS

* * * * * * *

SEC. 222. QUALIFIED TUITION AND RELATED EXPENSES.

(a) * * *

* * * * * * *

(e) ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—

(1) IN GENERAL.—In the case of a taxpayer whose adjusted gross income for the taxable year does not exceed $20,000 ($40,000 in the case of a joint return), qualified tuition and related expenses shall include the qualified elementary and secondary education expenses paid by the taxpayer during the taxable year.

(2) DOLLAR LIMITATION.—

(A) IN GENERAL.—For purposes of paragraph (1), the amount of qualified elementary and secondary education expenses taken into account for a taxable year under this section by reason of paragraph (1) shall not exceed $3,000.

(B) COORDINATION.—For purposes of this section—

(i) the dollar limitations under subsection (b) shall not apply to qualified elementary and secondary education expenses, and

(ii) qualified elementary and secondary education expenses shall not be taken into account for purposes of applying the applicable dollar limit under subsection (b).

(3) DEFINITIONS.—For purposes of this subsection—

(A) QUALIFIED ELEMENTARY AND SECONDARY EDUCATION EXPENSES.—The term "qualified elementary and secondary education expenses" has the same meaning given to such term by section 530(b)(4), except that—

(i) such term shall not include room and board,

(ii) subparagraph (A)(i) thereof shall be applied by including enrollment or attendance at a home school (as determined under State law), and

(iii) such section shall be applied—

(I) by substituting "individual" for "designated beneficiary of the trust" in subparagraph (A)(i) thereof,

(II) by substituting "an individual with special needs" for "a special needs beneficiary" in subparagraph (A)(i) thereof, and

(III) by substituting "individual and the individual's family during any of the years the individual" for "beneficiary and the beneficiary's family during any of the years the beneficiary" in subparagraph (A)(iii) thereof.

(B) ADJUSTED GROSS INCOME.—Adjusted gross income shall be determined under subsection (b)(2)(C).

[(e)**]** *(f)* TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2005.

* * * * * * *

VII. DISSENTING VIEWS

It had been our hope that expanding educational opportunities for our children would be an issue where this Committee could set aside its partisan differences and work together. There are more than enough other issues that we can use to define our differences for the Fall campaign. Education could and should be different. The fact that Congressman Rangel and Congresswoman Nancy Johnson reached across the partisan divide in an attempt to aid our ailing public schools gave credence to our hopes.

Unfortunately, the Committee, presumably following the dictates of the House Republican leadership, chose a different path. It reported out a bill on almost a pure party line vote. The reported bill is so flawed that it is an embarrassment to the Committee. It is worth noting that not one single Republican Member of the Committee defended the substance of the bill when Congressman Rangel and others raised concerns over its uncertain and likely overly broad definition of eligible expenses.

The Committee bill will not improve the education of a single American child because it is designed to make a political point, not to become law. Congressman Nussle's response during the Committee markup to questions over its impact on the budget made this clear. He stated that its revenue cost would be a concern only if it were presented to the President for his signature, an occurrence that he implied would be highly unlikely.

The political motivation for the bill is simple. Several months ago, the Congress passed the No Child Left Behind Act that reauthorized the elementary and secondary education programs. Congressional Republicans and the President pointed, with pride, to the enhanced levels of education spending that were authorized in that legislation. Now, the President and the House Republicans have allocated funds for that program for the next fiscal year that are approximately $7 billion less than the level that they just promised several months ago. This bill is an attempt to divert attention from their failure to live up to the prior rhetoric.

Administrability

From a technical standpoint the Committee bill is so flawed that it is an embarrassment. It provides a long list of potentially deductible items, including computers, internet access, software, books, videos, backpacks, art supplies, athletic equipment, and many other items. A parent could receive tax deductions by paying one child to tutor another child as long as the parent contends that the tutoring is academic. Even after years of working on similar legislation, the Committee staff still could not explain whether taxi cab fares would be covered by the legislation. The staff during the markup admitted that purchases of TV sets could qualify in certain circumstances. The bill directs the Internal Revenue Service to dis-

tinguish between games and educational software. Families with income of $40,000 would receive the full benefit of the deduction, but if they have an additional dollar of income, they would lose it all. That is a result which is hard to justify; it would provide large incentives to not report income in order to avoid this harsh result.

Above are only a few examples of the many problems that would result if this bill becomes law. Again, it is worth noting that no Republican Member of the Committee bothered to explain or justify the legislation. They were merely voting according to their leadership dictates.

Bipartisan school construction alternative

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

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

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

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

The bipartisan compromise is a cost-effective approach that would leverage nearly $25 billion in school repairs and new construction, while avoiding the creation of any new level of bureaucracy.

Conclusion

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

PETE STARK.
C.B. RANGEL.
ROBERT T. MATSUI.
RICHARD E. NEAL.
JERRY KLECZKA.
JOHN LEWIS.
KAREN L. THURMAN.
WILLIAM J. COYNE.
SANDER M. LEVIN.
BEN CARDIN.
JIM MCDERMOTT.
JOHN TANNER.
XAVIER BECERRA.
WM. J. JEFFERSON.

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