

# cape Council for American Private Education outlook

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## Education Savings Accounts Proposal Becomes Law

### ESAs in Brief

√ The law governing current college-level savings accounts is amended by increasing the allowable annual contribution from \$500 to \$2,000 and by allowing the accounts to be used for elementary and secondary education costs in public or private schools.

√ The buildup of interest within an account is tax free, and neither the principal nor interest is taxable upon withdrawal if used for a qualified educational expense.

√ Qualified educational expenses include tuition, fees, academic tutoring, after-school programs, special needs services, books, supplies, computers, uniforms, and transportation.

√ Entities such as corporations, charitable organizations, and foundations can contribute to a student's account.

√ Individual taxpayers with incomes under \$95,000 and married taxpayers with incomes under \$190,000 can make the maximum allowable annual contribution to an ESA. At higher income brackets, the allowable contribution level starts to phase out.

√ The new provisions are effective for tax years beginning January 1, 2002.

For the first time ever, Congress has approved and the president has signed a measure of tax relief to help with the costs of a child's education in a private, including religious, elementary or secondary school. Although the relief is relatively modest — essentially amounting to tax-free interest on savings earmarked for education — its historical significance is unmistakable. Another brick has been removed from the wall that separates parents from the freedom to choose their children's schools.

Part of the tax cut package passed by Congress over the Memorial Day weekend, the education savings accounts (ESAs) provision amends existing college-only savings accounts by raising the annual contribution limit from \$500 to \$2,000 and by allowing the funds to be used not only for college costs, but also for expenses in grades K-12. Families with children in public and private schools can use the accounts to pay for things like books, supplies, after-school programs, tuition, tutoring, and even home computers. Although contributions to an ESA are not tax deductible, the interest that accumulates is tax free, and withdrawals are not subject to taxation if used for qualified expenses. A noteworthy component of the program allows third parties, including corporations, unions, and tax-

exempt organizations, to establish and contribute to ESAs.

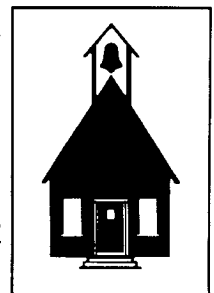
One measure of the significance of education savings accounts in the national struggle for school choice is the intense opposition the proposal faced during its four-year journey toward enactment. In 1997, under pressure from a host of public education organizations, President Clinton forced congressional leaders to remove an ESA provision from a comprehensive taxpayer relief bill. In a sternly written letter at the time, Clinton said he would veto "any tax package that would undermine public education by providing tax benefits for private and parochial



*The late Senator Paul Coverdell (R-GA), champion of education savings accounts.*

school expenses." A few months later, Senate Democrats filibustered a stand-alone ESA bill that had passed the House. The next year an ESA proposal, which by then had become the centerpiece of the Republican plan for school reform, was approved by Congress but vetoed by the president, who called it "bad education policy and bad tax policy." The fierce wrangling over the bill in the Senate that year was

**Continued  
on page 2**



**Continued from page 1**

marked by an astounding degree of rhetorical overstatement, even by Senate standards. Then Senate Minority Leader Tom Daschle (D-SD) said the bill would "privatize" public schools and result in "the death of public education." Senator Ted Kennedy (D-MA) said if the bill were enacted, a sign should be hung outside every public school saying, "Abandon hope, all ye who enter here." In 1999 Congress again approved ESAs as part of a tax relief bill that was ultimately vetoed, and in 2000 House Republican leaders, calling ESAs one of their top two tax priorities, were forced to abandon the measure after realizing they lacked the votes to beat back a challenge.

**Bickering Continues**

The partisan bickering over ESAs continued right up to the proposal's enactment. Days before Congress approved the tax package last month, Senators Blanche Lincoln (D-AR) and Jon Corzine (D-NJ) introduced an amendment to strip private school tuition from the list of allowable expenses for the accounts. The Senate defeated the measure 58-41. Eleven Democrats — Biden (DE), Breaux (LA), Byrd (WV), Cleland (GA), Conrad (ND), Feinstein (CA), Kohl (WI), Lieberman (CT), Miller (GA), Nelson (NE), and Torricelli (NJ) — joined 47 Republicans in voting against the amendment, while two Republicans — Chafee (RI) and Jeffords (VT) — joined 39 Democrats in voting for it.

During the debate on her amendment, Senator Lincoln said "using ESA accounts for private school tuition is simply vouchers by another name." She went on to repeat a variation of what has become the standard refrain of school choice opponents: "I am concerned that providing a tax incentive to pay private school tuition will divert the critical resources needed to improve our public schools."

Countering Mrs. Lincoln's claim, Senator Tim Hutchinson (R-AR) said ESA accounts were "by no means vouchers, by any stretch of the imagination." He said the Lincoln amendment would

tear the very heart out of the ESA proposal.

Ironically, the two sponsors of the amendment to gut private school expenses from ESAs, Lincoln of Arkansas and Corzine of New Jersey, are from the same states as the Senate's two main supporters of ESAs. Senators Tim Hutchinson and Robert Torricelli (D-NJ) steered the proposal through troubled waters this year, with Torricelli being especially helpful within the Senate Finance Committee. Commenting on ESAs, Torricelli said, "A quality education is the foundation of success. The more we can do to make it affordable and accessible, the better future we will have in store for us as a nation."

**Win Belongs to Coverdell**

But no one in the Senate is more responsible for shepherding ESAs to final enactment than Paul Coverdell of Georgia, a steady and eloquent Republican senator who died of a stroke last July. Coverdell fought valiantly and tirelessly for education savings accounts. Against impossible odds, he waged a successful series of battles — fighting filibusters, managing floor debates, masterminding strategies, and negotiating agreements — to get an ESA bill approved in the Senate several times since 1997. Through a combination of determination, persuasion, and persistence, Coverdell inspired supporters of ESAs to hold the course. He himself never gave up hope. "There is hope in the dreams of parents who stretch the family budget to its capacity so that their children may have a better future than they had," he once told a group of ESA supporters.

Senators had planned to honor the memory of their beloved colleague from Georgia by naming the program that he championed "Coverdell Education Savings Accounts," but a last-minute snag with the tax bill delayed the honor. Senators intend to accomplish the name change with appropriate legislation later in the session.

**Presidential Support**

Of course, a factor not to be overlooked in the successful enactment of

ESAs is the support provided by President Bush. By including the initiative in his education reform plan, he clearly helped propel its passage.

Still, timing was everything with ESAs this year. Despite Bush's support, had the measure not been approved by Congress when it was, it would have faced a considerably rougher, if not impossible, road to enactment. Initially, some Republican leaders wanted ESAs to be part of a tax proposal separate from rate reductions — a proposal to be slated for consideration later this year. But thanks to efforts by Senator Torricelli and others, the accounts were included in the Senate's general tax package, which quickly became the basis for the compromise bill that Congress approved. With the change in Senate leadership caused by Senator James Jeffords switching parties, it now appears that any additional tax proposals will be all but doomed.

**How Parents Perceive Schools**

*Last month, Harvard University released the results of a survey of over 2,300 applicants for the Children's Scholarship Fund, including those whose children were selected by lottery to receive a scholarship to attend a private school during 1999-00 and those whose children were not selected. Below are some key findings. For the full report, visit [www.ksg.harvard.edu/pepg](http://www.ksg.harvard.edu/pepg).*

	<b>Private School Parents</b>	<b>Public School Parents</b>
<b>Percent very satisfied with:</b>		
<b>Academics</b>	68	23
<b>Safety</b>	71	20
<b>Discipline</b>	58	22
<b>Values</b>	69	25

# House Rejects School Choice Amendment to Bush Bill

## Action on Choice Shifts to Senate, Where Outcome is Uncertain

"Here I am again," Majority Leader Dick Arney announced to his colleagues from the well of the House of Representatives. Recalling a song by Johnny Cash and Ray Charles, Arney said he felt like a "crazy old soldier fighting a war on my own" — a war to get school choice scholarships for low-income children. In an impassioned plea he urged his colleagues, "For once, just once in our lives, in a congressional career, put the special interests aside, put the ideological high-boundness aside, put the institutional considerations aside. Just once, just give me a vote for the kids, just once."

Indeed, the majority leader's congressional colleagues were quick to give him a vote, but it wasn't the one he wanted. On May 22, the House rejected Arney's amendment to authorize up to five pilot projects to test the effectiveness of school choice in improving the academic achievement of disadvantaged students. The vote was 186-241.

Curiously, 23 members, who had voted in favor of Arney's 1998 proposal to establish a limited school choice



Senator Judd Gregg (R-NH) at a school choice news conference last month.

project in the District of Columbia, voted against this similar proposal. One factor complicating the vote on this year's initiative was its status as an amendment to the Bush administration's delicately balanced education reform bill, H.R. 1, which the House approved shortly after rejecting the Arney measure. Some members of Congress, including Republicans desiring an early and decisive policy victory for the president, may have been reluctant to support a poison pill amendment

certain to unravel the bipartisan agreement and kill the overarching bill. Given these complications, a straight-up vote on a stand-alone school choice proposal probably would have had a different result.

The education reform plan the House ultimately approved, while void of vouchers and all other private school choice components, did include various other programs that provide for the equitable participation of students and teachers in private schools. A new reading program for children in grades K-3, and a consolidated program of technology aid that leaves the E-Rate intact both include private schools. Also of interest to private schools, the bill expressly prohibits federally sponsored national tests and federally controlled curricula.

Among its teacher quality provisions, H.R. 1 gives private schools equal access to a much-expanded pool of resources for programs of professional development. But two teacher recruitment initiatives designed to encourage mid-career professionals to become teachers — the Troops-to-Teachers program and Transition to

Teaching — prohibit participants from teaching in private schools. With the teacher shortage affecting both public and private schools, CAPE has been committed to making sure that government-sponsored teacher recruitment incentives do not put private schools at a disadvantage.



Majority Leader Dick Arney (R-TX) at a school choice news conference in 1997.

### To the Senate

With the House having passed the president's reform package, the spotlight shifts to the Senate. There the

struggle for school choice is expected to center on a couple of amendments to S. 1, the Senate version of the president's plan. Sometime in June the Senate may consider an amendment by Judd Gregg (R-NH) to fund about a dozen school choice demonstration projects in willing cities and states across the country and another amendment by John McCain (R-AZ) to authorize a four-year school choice demonstration program in the District of Columbia.

Although the fate of these amendments is uncertain — even more so with the change in Senate leadership — they could win some critical bipartisan backing. A handful of Democrats, including one of the Senate's most influential members, Joseph Lieberman of Connecticut, have supported similar demonstration projects in the past, and just a few months ago Lieberman said he would do so again.





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## capenotes

• State lawmakers in Florida and Pennsylvania have passed trailblazing legislation providing tax credits to corporations that contribute to scholarship funds to help needy children attend private schools. Corporations in Florida can receive a 100 percent tax credit for their contributions, while those in Pennsylvania are eligible for a 75-90 percent credit, depending on their level of commitment to a scholarship fund. The annual aggregate statewide cap for the program is \$50 million in Florida and \$20 million in Pennsylvania.

• The Sunshine State also expanded its groundbreaking scholarship program for students with disabilities. On May 30, Governor Jeb Bush signed legislation changing the funding formula and other aspects of the program. A student with an IEP in Florida whose parents are dissatisfied with the progress he or she is making has the option of attending a different public school or a participating private school. The state scholarship to the private school covers the cost of the school's tuition and fees, up to an amount

equivalent to the cost of the child's education in a public school.

• Lawyers for the state of Ohio and the Institute for Justice petitioned the U.S. Supreme Court last month to overturn a lower court decision disallowing Cleveland's school choice program.

"This is the U.S. Supreme Court test case we've been waiting for to remove the constitutional cloud from school choice once and for all," said Clint Bolick, the Institute's litigation director. "This program provides a lifeline for children trapped in Cleveland's tragically inadequate public schools."

Last December, three judges of the 6<sup>th</sup> U.S. Circuit Court of Appeals ruled 2-1 that the Cleveland voucher program has the "impermissible effect" of promoting religion.

Established in 1995 as the country's first government-funded voucher initiative to include religious schools, the Ohio program provides low-income children with scholarships of up to \$2,250 to use at private schools.

• U.S. Secretary of Education Rod Paige announced last month the names of 264 elementary schools selected as

2000-01 Blue Ribbon Schools. Among the winners are 41 private schools.

"These schools represent pockets of excellence in education that can be found in communities all across the country," Paige said. "Blue Ribbon Schools can serve as examples of what is possible under the president's plan to create a system of education that gives every child access to a quality education."

Paige said the recognized schools share several characteristics, including a clear vision and shared sense of mission, a challenging, up-to-date curriculum, and a commitment to help all students achieve high standards.

Since the program began in 1982, 4,246 schools, including 871 private schools, have been named Blue Ribbon Schools. The application process requires schools to undergo a comprehensive self-assessment — an essential component of school improvement — and also requires them to demonstrate rigorous performance outcomes based on student assessment.

The Department of Education also announced last month that plans for the 2002-03 BRS cycle have been put on hold, pending a review and possible redesign of the program.