CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 28, 1997

S. 1149
Investment in Education Act of 1997

As reported by the Senate Committee on the Judiciary on October 9, 1997

SUMMARY

CBO estimates that enacting S. 1149 would have no significant impact on the federal budget. Enacting the bill could affect governmental receipts (revenues); therefore, pay-as-you-go procedures would apply to the bill, but CBO estimates that any such effects would not be significant.

S. 1149 contains an intergovernmental mandate as defined by the Unfunded Mandates Reform Act of 1995 (UMRA) because it would preempt state laws governing homestead exceptions. However, this preemption would result in no significant costs for state, local or tribal governments. Other provisions in the bill would likely result in additional revenues or savings for state and local governments from bankruptcy cases. S. 1149 contains no private-sector mandates as defined in UMRA.

Enacting S. 1149 would make several changes to federal bankruptcy laws (Title 11, United States Code). First, ad valorem taxes (usually a state or local tax that is assessed based on the value of property) protected by liens would be paid from the bankruptcy estate ahead of most other expenses. Under current law, ad valorem liabilities are not considered high-priority claims against the bankruptcy estate; consequently, such claims are satisfied with any proceeds remaining after most other claims have been paid. S. 1149 also would prohibit bankruptcy courts from hearing challenges to ad valorem tax claims if the period for contesting such claims under state or local law has expired. Under current law, bankruptcy judges who issue rulings on tax claims can retroactively lower the assessed value of a bankrupt debtor's property, requiring local taxing authorities to refund debtors a portion of taxes already collected. Finally, enacting S. 1149 would clarify that certain property otherwise protected from bankruptcy claims is liable for debts in connection with alimony, child support payments, and a broad variety of taxes and customs duties.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

Based on information from the Department of Justice, CBO expects that by requiring ad valorem state and local tax debt to be paid prior to most other liabilities of bankruptcy estates, the bill could result in less funds being available for the payment of any outstanding federal tax debt. Thus, under this bill the federal government could collect fewer taxes. However, because federal tax claims against a bankruptcy estate already receive low priority during the distribution process, CBO estimates that enacting this bill would have a negligible impact on the collection of federal taxes. In addition, based on information from the Administrative Office of the United States Courts, CBO estimates that enacting S. 1149 would not have a significant impact on federal court costs or on spending by the U.S. bankruptcy trustees because the bill would not have a major impact on bankruptcy proceedings.

IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 1149 would preempt state laws governing the nature of property otherwise protected from claims in bankruptcy cases where certain taxes, customs duties, or claims of spousal support, child support, or maintenance are involved. This preemption would be considered a mandate under UMRA, but states would not lose any income or incur any costs as a result.

By altering the order of claims against a bankruptcy estate, the bill would place ad valorem taxes (usually local property taxes) ahead of other expenses, thus increasing revenues for the taxing government. While no comprehensive data are available, information from local governments indicate that in some cases they would stand to gain $500,000 to $1 million. The impact in each case would depend upon the amount of assets available for liquidation and the outstanding tax claim.

The provision that would prohibit bankruptcy courts from retroactively changing the tax liability of debtors would protect state and local governments from having to refund tax payments after the time period for normal appeal proceedings has elapsed. This change would also result in savings to these governments.

The CBO staff contacts for this estimate are Susanne S. Mehlman (for federal budgetary effects), and Leo K. Lex (for the state and local impact). This estimate was approved by Robert A. Sunshine, Deputy Assistant Director for Budget Analysis.