

109TH CONGRESS
2D SESSION

S. 3940

To amend the Internal Revenue Code of 1986 to extend and expand tax incentives that promote affordable education.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2006

Mr. SMITH (for himself and Mrs. LINCOLN) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to extend and expand tax incentives that promote affordable education.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Educational Oppor-
5 tunity and Affordability Act of 2006”.

6 **SEC. 2. EXTENSION AND EXPANSION OF ABOVE-THE-LINE**

7 **DEDUCTION FOR CERTAIN EXPENSES OF EL-**

8 **EMENTARY AND SECONDARY SCHOOL**

9 **TEACHERS.**

10 (a) IN GENERAL.—

1 (1) IN GENERAL.—Subparagraph (D) of section
2 62(a)(2) of the Internal Revenue Code of 1986 (re-
3 lating to certain expenses of elementary and sec-
4 ondary school teachers) is amended to read as fol-
5 lows:

6 “(D) CERTAIN EXPENSES OF ELEMENTARY
7 AND SECONDARY SCHOOL TEACHERS.—

8 “(i) IN GENERAL.—The deductions al-
9 lowed by section 162 which consist of ex-
10 penses, not in excess of \$450, paid or in-
11 curred by an eligible educator—

12 “(I) in connection with books,
13 supplies (other than nonathletic sup-
14 plies for courses of instruction in
15 health or physical education), com-
16 puter equipment (including related
17 software services) and other equip-
18 ment, and supplementary materials
19 used by the eligible educator, and

20 “(II) for the professional develop-
21 ment of the eligible educator.

22 “(ii) INFLATION ADJUSTMENT.—In
23 the case of any taxable year beginning
24 after 2006, the \$450 dollar amount under

1 clause (i) shall be increased by an amount
2 equal to—

3 “(I) such dollar amount, multi-
4 plied by

5 “(II) the cost-of-living adjust-
6 ment determined under section 1(f)(3)
7 for the calendar year in which the tax-
8 able year begins, determined by sub-
9 stituting ‘calendar year 2005’ for ‘cal-
10 endar year 1992’ in subparagraph (B)
11 thereof.

12 If any amount as adjusted under the pre-
13 ceding sentence is not a multiple of \$10,
14 such amount shall be rounded to the next
15 lowest multiple of \$10.”.

16 (b) ELIGIBLE EDUCATOR.—

17 (1) MODIFICATION TO HOURS REQUIREMENT.—

18 Subparagraph (A) of section 62(d)(1) of the Internal
19 Revenue Code of 1986 (relating to eligible educator)
20 is amended by striking “900 hours” and inserting
21 “450 hours”.

22 (2) INCLUSION OF ATHLETIC COACHES, TRAIN-
23 ERS, AND ASSISTANTS.—Subparagraph (A) of sec-
24 tion 62(d)(1) of such Code is amended by striking

1 “or aide” and inserting “aide, or athletic coach,
2 trainer, or assistant”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 December 31, 2005.

6 **SEC. 3. EXPANSION OF EDUCATIONAL EXPENSES ALLOWED**
7 **AS PART OF HOPE SCHOLARSHIP CREDIT.**

8 (a) CREDIT ALLOWED FOR FIRST 3 YEARS OF POST-
9 SECONDARY EDUCATION.—Subparagraph (C) of section
10 25A(b)(2) of the Internal Revenue Code of 1986 (relating
11 to credit allowed only for first 2 years of postsecondary
12 education) is amended by striking “2” in both the heading
13 and the text and inserting “3”.

14 (b) QUALIFIED TUITION AND RELATED EXPENSES
15 EXPANDED TO INCLUDE BOOKS, SUPPLIES, AND EQUIP-
16 MENT.—Paragraph (1) of section 25A(f) of the Internal
17 Revenue Code of 1986 (defining qualified tuition and re-
18 lated expenses) is amended by adding at the end the fol-
19 lowing new subparagraph:

20 “(D) ADDITIONAL EXPENSES ALLOWED
21 FOR HOPE SCHOLARSHIP CREDIT.—For pur-
22 poses of the Hope Scholarship Credit, such
23 term shall include fees, books, supplies, and
24 equipment required for courses of instruction at
25 the eligible educational institution.”.

1 (c) HOPE SCHOLARSHIP CREDIT NOT REDUCED BY
2 FEDERAL PELL GRANTS AND SUPPLEMENTAL EDU-
3 CATIONAL OPPORTUNITY GRANTS.—Subsection (g) of sec-
4 tion 25A of such Code (relating to special rules) is amend-
5 ed by adding at the end the following new paragraph:

6 “(8) PELL AND SEOG GRANTS.—For purposes
7 of the Hope Scholarship Credit, paragraph (2) shall
8 not apply to amounts paid for an individual as a
9 Federal Pell Grant or a Federal supplemental edu-
10 cational opportunity grant under subparts 1 and 3,
11 respectively, of part A of title IV of the Higher Edu-
12 cation Act of 1965 (20 U.S.C. 1070a and 1070b et
13 seq., respectively).”.

14 (d) EXPANDED HOPE EXPENSES NOT SUBJECT TO
15 INFORMATION REPORTING REQUIREMENTS.—Subsection
16 (e) of section 6050S of such Code (relating to definitions)
17 is amended by striking “subsection (g)(2)” and inserting
18 “subsections (f)(1)(D) and (g)(2)”.

19 (e) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to expenses paid after December
21 31, 2006 (in tax years ending after such date), for edu-
22 cation furnished in academic periods beginning after such
23 date.

1 **SEC. 4. INCREASED EMPLOYER PROVIDED EDUCATIONAL**
2 **ASSISTANCE.**

3 (a) IN GENERAL.—Paragraph (2) of section 127(a)
4 of the Internal Revenue Code of 1986 (relating to exclu-
5 sion from gross income) is amended to read as follows:

6 “(2) MAXIMUM EXCLUSION.—

7 “(A) IN GENERAL.—If, but for this para-
8 graph, this section would exclude from gross in-
9 come more than \$8,000 of educational assist-
10 ance furnished to an individual during a cal-
11 endar year, this section shall apply only to the
12 first \$8,000 of such assistance so furnished.

13 “(B) INFLATION ADJUSTMENT.—

14 “(i) IN GENERAL.—In the case of a
15 calendar year beginning after 2007, the
16 \$8,000 amount in subparagraph (A) shall
17 be increased by an amount equal to—

18 “(I) such dollar amount, multi-
19 plied by

20 “(II) the cost-of-living adjust-
21 ment determined under section 1(f)(3)
22 for the calendar year, determined by
23 substituting ‘calendar year 2006’ for
24 ‘calendar year 1992’ in subparagraph
25 (B) thereof.

1 “(ii) ROUNDING.—If any amount as
2 adjusted under clause (i) is not a multiple
3 of \$100, such amount shall be rounded to
4 the next lowest multiple of \$100.”.

5 (b) REPEAL OF EGTRRA SUNSET.—Section 901 of
6 the Economic Growth and Tax Relief Reconciliation Act
7 of 2001 shall not apply to section 411 of such Act.

8 (c) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to taxable years beginning after
10 December 31, 2006.

11 **SEC. 5. INCREASED DEDUCTION FOR STUDENT LOAN IN-**
12 **TEREST.**

13 (a) INCREASE IN DEDUCTION AMOUNT; REMOVAL OF
14 INCOME CAPS.—Subsection (b) section 221 of the Internal
15 Revenue Code of 1986 (relating to maximum deduction)
16 is amended to read as follows:

17 “(b) MAXIMUM DEDUCTION.—The deduction allowed
18 by subsection (a) for the taxable year shall not exceed
19 \$3,500.”.

20 (b) APPLICATION OF EGTRRA SUNSET.—The
21 amendment made by subsection (a) shall be subject to sec-
22 tion 901 of the Economic Growth and Tax Relief Rec-
23 onciliation Act of 2001 to the same extent and in the same
24 manner as section 412(b) of such Act.

1 (c) EFFECTIVE DATE.—The amendment made by
 2 this section shall apply to taxable years beginning after
 3 December 31, 2006.

4 **SEC. 6. EXTENSION AND EXPANSION OF QZABS.**

5 (a) EXTENSION.—Section 1397E(e)(1) of the Inter-
 6 nal Revenue Code of 1986 (relating to national limitation)
 7 is amended by striking “and 2005” and inserting “2005,
 8 2006, 2007, 2008, 2009, and 2010”.

9 (b) EXPANSION OF QUALIFIED ZONE ACADEMY
 10 BONDS FOR PUBLIC SCHOOLS IN COUNTIES WITH NA-
 11 TIONAL FOREST SYSTEM LANDS AND RURAL COUN-
 12 TIES.—

13 (1) IN GENERAL.—Section 1397E(f) of the In-
 14 ternal Revenue Code of 1986 (relating to other defi-
 15 nitions) is amended by adding at the end the fol-
 16 lowing new paragraph:

17 “(4) QUALIFIED ZONE ACADEMY BOND.—The
 18 term ‘qualified zone academy bond’ means any quali-
 19 fied zone academy bond described in subsection (d)
 20 and any qualified zone academy bond described in
 21 subsection (j).”.

22 (2) QUALIFIED ZONE ACADEMY BONDS FOR
 23 PUBLIC SCHOOLS IN COUNTIES WITH NATIONAL
 24 FOREST SYSTEM LANDS AND RURAL COUNTIES.—
 25 Section 1397E of the Internal Revenue Code of

1 1986 (relating to credit for holders of qualified zone
2 academy bonds) is amended by adding at the end
3 the following new subsection:

4 “(j) QUALIFIED ZONE ACADEMY BOND DESCRIBED
5 IN SUBSECTION (j).—For purposes of this section—

6 “(1) IN GENERAL.—The term ‘qualified zone
7 academy bond described in subsection (j)’ means any
8 bond issued as part of an issue if—

9 “(A) 95 percent or more of the proceeds of
10 such issue are to be used for a qualified pur-
11 pose with respect to a qualified zone academy,

12 “(B) the bond is issued by a State on be-
13 half of an eligible county within the jurisdiction
14 of which such school is located or by such an
15 eligible county,

16 “(C) the issuer—

17 “(i) designates such bond for purposes
18 of this section, and

19 “(ii) certifies that it has the written
20 approval of the eligible county for such
21 bond issuance,

22 “(D) the term of each bond which is part
23 of such issue does not exceed the maximum
24 term permitted under subsection (d)(3), and

1 “(E) the issue meets the requirements of
2 paragraphs (6), (7), (8), and (9).

3 “(2) QUALIFIED ZONE ACADEMY.—For pur-
4 poses of this subsection, the term ‘qualified zone
5 academy’ means any public school which is located
6 in an eligible county and provides education or train-
7 ing below the postsecondary level.

8 “(3) ELIGIBLE COUNTY.—For purposes of this
9 subsection, the term ‘eligible county’ means any
10 county—

11 “(A) which received payments under the
12 Secure Rural Schools Act for fiscal year 2006,
13 or

14 “(B) within which there is a qualified zone
15 academy with a locale code of 7 or 8, or which
16 is otherwise designated as a rural school, as de-
17 termined by the Secretary of Education.

18 “(4) QUALIFIED PURPOSE.—For purposes of
19 this subsection, the term ‘qualified purpose’ means,
20 with respect to any qualified zone academy, any cap-
21 ital expenditure, employees’ salaries, or any other
22 purpose described in subsection (d)(5).

23 “(5) LIMITATION ON AMOUNT OF BONDS DES-
24 IGNATED.—

1 “(A) NATIONAL LIMITATION.—There is a
2 national limitation for qualified zone academy
3 bonds described in subsection (j) for each cal-
4 endar year. Such limitation is \$400,000,000 for
5 2006, 2007, 2008, 2009, and 2010, and, except
6 as provided in subparagraph (D), zero there-
7 after.

8 “(B) ALLOCATION OF LIMITATION.—The
9 national limitation for qualified zone academy
10 bonds described in subsection (j) for a calendar
11 year shall be allocated by the Secretary among
12 the States with respect to the eligible counties
13 located in each such State. Such allocation limi-
14 tation shall be determined by the Secretary and
15 shall be based on—

16 “(i) the ratio of county payments re-
17 ceived by a county for such fiscal year
18 under the Secure Rural Schools Act bears
19 to the total amount of such payments for
20 all eligible counties for such fiscal year,
21 and

22 “(ii) the population of a county.

23 The limitation amount allocated by a State to
24 an eligible county under this subparagraph shall

1 be allocated by the eligible county to qualified
2 zone academies within such county.

3 “(C) DESIGNATION SUBJECT TO LIMITA-
4 TION AMOUNT.—The maximum aggregate face
5 amount of bonds issued during any calendar
6 year which may be designated under paragraph
7 (1) with respect to any qualified zone academy
8 shall not exceed the limitation amount allocated
9 to such academy under subparagraph (B) for
10 such calendar year.

11 “(D) CARRYOVER OF UNUSED LIMITA-
12 TION.—If for any calendar year—

13 “(i) the limitation amount for any eli-
14 gible county, exceeds

15 “(ii) the amount of bonds issued dur-
16 ing such year which are designated under
17 paragraph (1) with respect to qualified
18 zone academies within such county,

19 the limitation amount for such county for the
20 following calendar year shall be increased by
21 the amount of such excess. Any carryforward of
22 a limitation amount may be carried only to the
23 first 2 years following the unused limitation
24 year. For purposes of the preceding sentence, a

1 limitation amount shall be treated as used on a
2 first-in first-out basis.

3 “(6) RATABLE PRINCIPAL AMORTIZATION RE-
4 QUIRED.—An issue shall be treated as meeting the
5 requirements of this paragraph if such issue pro-
6 vides for an equal amount of principal to be paid by
7 the issuer during each calendar year that the issue
8 is outstanding.

9 “(7) SPECIAL RULES RELATING TO EXPENDI-
10 TURES.—

11 “(A) IN GENERAL.—An issue shall be
12 treated as meeting the requirements of this
13 paragraph if, as of the date of issuance, the
14 issuer reasonably expects—

15 “(i) at least 95 percent of the pro-
16 ceeds from the sale of the issue are to be
17 spent for 1 or more qualified purposes with
18 respect to qualified zone academies within
19 the 5-year period beginning on the date of
20 issuance of the qualified zone academy
21 bond described in subsection (j),

22 “(ii) a binding commitment with a
23 third party to spend at least 10 percent of
24 the proceeds from the sale of the issue will
25 be incurred within the 6-month period be-

1 ginning on the date of issuance of the
2 qualified zone academy bond described in
3 subsection (j), and

4 “(iii) such purposes will be completed
5 with due diligence and the proceeds from
6 the sale of the issue will be spent with due
7 diligence.

8 “(B) EXTENSION OF PERIOD.—Upon sub-
9 mission of a request prior to the expiration of
10 the period described in subparagraph (A)(i), the
11 Secretary may extend such period if the issuer
12 establishes that the failure to satisfy the 5-year
13 requirement is due to reasonable cause and the
14 related purposes will continue to proceed with
15 due diligence.

16 “(C) FAILURE TO SPEND REQUIRED
17 AMOUNT OF BOND PROCEEDS WITHIN 5
18 YEARS.—To the extent that less than 95 per-
19 cent of the proceeds of such issue are expended
20 by the close of the 5-year period beginning on
21 the date of issuance (or if an extension has
22 been obtained under subparagraph (B), by the
23 close of the extended period), the issuer shall
24 redeem all of the nonqualified bonds within 90
25 days after the end of such period. For purposes

1 of this subparagraph, the amount of the non-
2 qualified bonds required to be redeemed shall be
3 determined in the same manner as under sec-
4 tion 142.

5 “(8) SPECIAL RULES RELATING TO ARBI-
6 TRAGE.—An issue shall be treated as meeting the
7 requirements of this paragraph if the issuer satisfies
8 the arbitrage requirements of section 148 with re-
9 spect to proceeds of the issue.

10 “(9) REPORTING.—Issuers of qualified zone
11 academy bonds described in subsection (j) shall sub-
12 mit reports similar to the reports required under
13 section 149(e).

14 “(10) APPLICATION OF SPECIAL RULES.—For
15 purposes of this subsection, rules similar to the rules
16 under paragraphs (3) and (4) of section 54(i) shall
17 apply.”.

18 (3) NO LIMITATION ON TAXPAYERS ELIGIBLE
19 FOR CREDIT.—Section 1397E(a) of the Internal
20 Revenue Code of 1986 is amended by striking “In
21 the case of an eligible taxpayer who holds a qualified
22 academy zone bond” and inserting “In the case of
23 an eligible taxpayer who holds a qualified academy
24 zone bond described in subsection (d) or any tax-

1 payer who holds a qualified academy zone bond de-
2 scribed in subsection (j)”.

3 (4) CONFORMING AMENDMENTS.—

4 (A) So much of subsection (d) of section
5 1397E of the Internal Revenue Code of 1986 as
6 precedes subparagraph (A) of paragraph (1) is
7 amended to read as follows:

8 “(d) QUALIFIED ZONE ACADEMY BOND DESCRIBED
9 IN SUBSECTION (d).—For purposes of this section—

10 “(1) IN GENERAL.—The term ‘qualified zone
11 academy bond described in subsection (d)’ means any
12 bond issued as a part of an issue if—”.

13 (B) So much of paragraph (4) of section
14 1397E(d) of such Code as precedes subpara-
15 graph (A) is amended to read as follows:

16 “(4) QUALIFIED ZONE ACADEMY.—For pur-
17 poses of this subsection—”.

18 (C) Paragraphs (1) and (2) of section
19 1397E(e) of such Code are each amended by
20 striking “national zone academy bond limita-
21 tion” and inserting “national limitation for
22 qualified zone academy bonds described in sub-
23 section (d)”.

1 (D) Section 1397E(i) of such Code is
2 amended by inserting “described in subsection
3 (d)” after “bond”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to bonds issued after December
6 31, 2005.

7 **SEC. 7. INCREASED LIMITATION FOR DEDUCTION FOR**
8 **HIGHER EDUCATION EXPENSES.**

9 (a) IN GENERAL.—Paragraph (2) of section 222(b)
10 of the Internal Revenue Code of 1986 (relating to applica-
11 ble dollar limit) is amended by striking subparagraphs (A)
12 and (B) and inserting the following:

13 “(A) IN GENERAL.—The applicable dollar
14 limit shall be equal to—

15 “(i) in the case of a taxpayer whose
16 adjusted gross income for the taxable year
17 does not exceed \$65,000 (twice such
18 amount in the case of a joint return),
19 \$6,000,

20 “(ii) in the case of a taxpayer not de-
21 scribed in clause (i) whose adjusted gross
22 income for the taxable year does not ex-
23 ceed \$80,000 (twice such amount in the
24 case of a joint return), \$4,000,

1 “(iii) in the case of a taxpayer not de-
2 scribed in clause (i) or (ii) whose adjusted
3 gross income for the taxable year does not
4 exceed \$100,000 (twice such amount in the
5 case of a joint return), \$2,000, and

6 “(iv) in the case of any other tax-
7 payer, zero.

8 “(B) INFLATION ADJUSTMENT.—

9 “(i) LIMITATION AMOUNT.—In the
10 case of any taxable year beginning after
11 2006, the \$6,000 amount in subparagraph
12 (A)(i), the \$4,000 amount in subparagraph
13 (A)(ii), and the \$2,000 amount in subpara-
14 graph (A)(iii) shall each be increased by an
15 amount equal to—

16 “(I) such dollar amount, multi-
17 plied by

18 “(II) the cost-of-living adjust-
19 ment determined under section 1(f)(3)
20 for the calendar year in which the tax-
21 able year begins, determined by sub-
22 stituting ‘calendar year 2005’ for ‘cal-
23 endar year 1992’ in subparagraph (B)
24 thereof.

1 If any amount as adjusted under the pre-
2 ceding sentence is not a multiple of \$100,
3 such amount shall be rounded to the next
4 lowest multiple of \$100.

5 “(ii) INCOME THRESHOLDS.—In the
6 case of any taxable year beginning after
7 2006, the \$65,000 amount in subpara-
8 graph (A)(i), the \$80,000 amount in sub-
9 paragraph (A)(ii), and the \$100,000
10 amount in subparagraph (A)(iii) shall each
11 be increased by an amount equal to—

12 “(I) such dollar amount, multi-
13 plied by

14 “(II) the cost-of-living adjust-
15 ment determined under section 1(f)(3)
16 for the calendar year in which the tax-
17 able year begins, determined by sub-
18 stituting ‘calendar year 2005’ for ‘cal-
19 endar year 1992’ in subparagraph (B)
20 thereof.

21 If any amount as adjusted under the pre-
22 ceding sentence is not a multiple of
23 \$1,000, such amount shall be rounded to
24 the next lowest multiple of \$1,000.”.

1 (b) APPLICATION OF EGTRRA SUNSET.—The
2 amendment made by subsection (a) shall be subject to sec-
3 tion 901 of the Economic Growth and Tax Relief Rec-
4 onciliation Act of 2001 to the same extent and in the same
5 manner as the amendments made by section 431 of such
6 Act.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to taxable years beginning after
9 December 31, 2005.

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