

109TH CONGRESS  
1ST SESSION

# S. 575

To amend the Internal Revenue Code of 1986 to provide a refundable credit for certain education expenses.

---

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2005

Ms. MIKULSKI (for herself, Mr. LAUTENBERG, Mrs. BOXER, and Mr. LEVIN) 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 provide a refundable credit for certain education expenses.

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 for All Act of 2005”.

6 **SEC. 2. EDUCATIONAL OPPORTUNITY FOR ALL TAX CREDIT.**

7 (a) IN GENERAL.—Subpart C of part IV of sub-  
8 chapter A of chapter 1 of the Internal Revenue Code of  
9 1986 is amended by redesignating section 36 as section

1 37 and by inserting after section 35 the following new sec-  
2 tion:

3 **“SEC. 36. EDUCATIONAL OPPORTUNITY TAX CREDIT.**

4 “(a) ALLOWANCE OF CREDIT.—

5 “(1) IN GENERAL.—There shall be allowed as a  
6 credit against the tax imposed by this subtitle for  
7 the taxable year an amount equal to the qualified  
8 tuition expenses paid by the taxpayer during the tax-  
9 able year (for education furnished during any aca-  
10 demic period beginning in such taxable year).

11 “(2) PER STUDENT LIMITATION.—The credit  
12 allowed under this section shall not exceed \$4,000  
13 with respect to any individual.

14 “(b) 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 expenses of an individual for  
17 any taxable year.

18 “(c) DEFINITIONS.—For purposes of this section—

19 “(1) QUALIFIED TUITION EXPENSES.—

20 “(A) IN GENERAL.—The term ‘qualified  
21 tuition expenses’ means tuition required for the  
22 enrollment or attendance of—

23 “(i) the taxpayer,

24 “(ii) the taxpayer’s spouse, or

1           “(iii) any dependent of the taxpayer  
2           with respect to whom the taxpayer is al-  
3           lowed a deduction under section 151,  
4           at an eligible educational institution for courses  
5           of instruction of such individual at such institu-  
6           tion.

7           “(B) EXCEPTION FOR EDUCATION INVOLV-  
8           ING SPORTS, ETC.—Such term does not include  
9           expenses with respect to any course or other  
10          education involving sports, games, or hobbies,  
11          unless such course or other education is part of  
12          the individual’s degree program.

13          “(C) EXCEPTION FOR NONACADEMIC  
14          FEES.—Such term does not include student ac-  
15          tivity fees, athletic fees, insurance expenses, or  
16          other fees or expenses unrelated to an individ-  
17          ual’s academic course of instruction.

18          “(D) JOB IMPROVEMENT INCLUDED.—  
19          Such term shall include tuition expenses de-  
20          scribed in subparagraph (A) with respect to any  
21          course of instruction at an eligible educational  
22          institution to acquire or improve job skills.

23          “(2) ELIGIBLE EDUCATIONAL INSTITUTION.—  
24          The term ‘eligible educational institution’ means an  
25          institution—

1           “(A) which is described in section 481 of  
2           the Higher Education Act of 1965 (20 U.S.C.  
3           1088), as in effect on the date of the enactment  
4           of the Taxpayer Relief Act of 1997, and

5           “(B) which is eligible to participate in a  
6           program under title IV of such Act.

7           “(d) SPECIAL RULES.—

8           “(1) IDENTIFICATION REQUIREMENT.—No  
9           credit shall be allowed under subsection (a) to a tax-  
10          payer with respect to the qualified tuition expenses  
11          of an individual unless the taxpayer includes the  
12          name and taxpayer identification number of such in-  
13          dividual on the return of tax for the taxable year.

14          “(2) ADJUSTMENT FOR CERTAIN SCHOLAR-  
15          SHIPS, ETC.—The amount of qualified tuition ex-  
16          penses otherwise taken into account under sub-  
17          section (a) with respect to an individual for an aca-  
18          demic period shall be reduced by the sum of any  
19          amounts paid for the benefit of such individual  
20          which are allocable to such period as—

21                  “(A) a qualified scholarship which is ex-  
22                  cludable from gross income under section 117,

23                  “(B) an educational assistance allowance  
24                  under chapter 30, 31, 32, 34, or 35 of title 38,

1 United States Code, or under chapter 1606 of  
2 title 10, United States Code, and

3 “(C) a payment (other than a gift, be-  
4 quest, devise, or inheritance within the meaning  
5 of section 102(a)) for such individual’s edu-  
6 cational expenses, or attributable to such indi-  
7 vidual’s enrollment at an eligible educational in-  
8 stitution, which is excludable from gross income  
9 under any law of the United States.

10 “(3) TREATMENT OF EXPENSES PAID BY DE-  
11 PENDENT.—If a deduction under section 151 with  
12 respect to an individual is allowed to another tax-  
13 payer for a taxable year beginning in the calendar  
14 year in which such individual’s taxable year begins—

15 “(A) no credit shall be allowed under sub-  
16 section (a) to such individual for such individ-  
17 ual’s taxable year, and

18 “(B) qualified tuition expenses paid by  
19 such individual during such individual’s taxable  
20 year shall be treated for purposes of this section  
21 as paid by such other taxpayer.

22 “(4) TREATMENT OF CERTAIN PREPAY-  
23 MENTS.—If qualified tuition expenses are paid by  
24 the taxpayer during a taxable year for an academic  
25 period which begins during the first 3 months fol-

1       lowing such taxable year, such academic period shall  
2       be treated for purposes of this section as beginning  
3       during such taxable year.

4               “(5) DENIAL OF DOUBLE BENEFIT.—No credit  
5       shall be allowed under this section for any expense  
6       for which a deduction is allowed under any other  
7       provision of this chapter.

8               “(6) COORDINATION WITH HOPE SCHOLARSHIP  
9       AND LIFETIME LEARNING CREDITS.—The qualified  
10      tuition and related expenses with respect to an indi-  
11      vidual for whom a Hope Scholarship Credit or the  
12      Lifetime Learning Credit under section 25A is al-  
13      lowed for the taxable year shall not be taken into ac-  
14      count under this section.

15              “(7) NO CREDIT FOR MARRIED INDIVIDUALS  
16      FILING SEPARATE RETURNS.—If the taxpayer is a  
17      married individual (within the meaning of section  
18      7703), this section shall apply only if the taxpayer  
19      and the taxpayer’s spouse file a joint return for the  
20      taxable year.

21              “(8) NONRESIDENT ALIENS.—If the taxpayer is  
22      a nonresident alien individual for any portion of the  
23      taxable year, this section shall apply only if such in-  
24      dividual is treated as a resident alien of the United

1 States for purposes of this chapter by reason of an  
2 election under subsection (g) or (h) of section 6013.

3 “(e) REGULATIONS.—The Secretary may prescribe  
4 such regulations as may be necessary or appropriate to  
5 carry out this section, including regulations providing for  
6 a recapture of the credit allowed under this section in  
7 cases where there is a refund in a subsequent taxable year  
8 of any amount which was taken into account in deter-  
9 mining the amount of such credit.”.

10 (b) REFUNDABILITY OF CREDIT.—Paragraph (2) of  
11 section 1324(b) of title 31, United States Code, is amend-  
12 ed by inserting before the period “or enacted by the Edu-  
13 cational Opportunity for All Act of 2005”.

14 (c) CONFORMING AMENDMENTS.—

15 (1) Sections 135(d)(2)(A), 222(c)(2)(A),  
16 529(c)(3)(B)(v)(II), and 530(d)(2)(C)(i)(II) of the  
17 Internal Revenue Code of 1986 are each amended by  
18 inserting “or section 36” after “section 25A” each  
19 place it appears.

20 (2) Section 6213(g)(2)(J) of such Code is  
21 amended by inserting “or section 36(d)(1)” after  
22 “expenses)”.

23 (3) The table of sections for subpart C of part  
24 IV of subchapter A of chapter 1 of such Code is

1       amended by striking the item relating to section 36  
2       and inserting the following:

“Sec. 36. Educational opportunity tax credit.

“Sec. 37. Overpayments of tax.”.

3       (d) **EFFECTIVE DATE.**—The amendments made by  
4 this section shall apply to expenses paid after December  
5 31, 2004, for education furnished in academic periods be-  
6 ginning after such date.

○