

111TH CONGRESS
1ST SESSION

S. 2851

To make permanent certain education tax incentives, to modify rules relating to college savings plans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 8, 2009

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To make permanent certain education tax incentives, to modify rules relating to college savings plans, and for other purposes.

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. AMENDMENT OF 1986 CODE.**

4 Except as otherwise expressly provided, whenever in
5 this Act an amendment or repeal is expressed in terms
6 of an amendment to, or repeal of, a section or other provi-
7 sion, the reference shall be considered to be made to a
8 section or other provision of the Internal Revenue Code
9 of 1986.

1 **SEC. 2. PERMANENT EXTENSION AND INCREASE OF AMER-**
 2 **ICAN OPPORTUNITY TAX CREDIT.**

3 (a) PERMANENT EXTENSION OF CREDIT; INCREASE
 4 OF CREDIT AMOUNT.—Section 25A is amended—

5 (1) by striking “\$1,000” each place it appears
 6 in subsection (b)(1) and inserting “\$2,000”,

7 (2) by striking “the applicable limit” in sub-
 8 section (b)(1)(B) and inserting “\$4,000”,

9 (3) by striking paragraph (4) of subsection (b),

10 (4) by striking “2 TAXABLE YEARS” in the
 11 heading of subparagraph (A) of subsection (b)(2)
 12 and inserting “4 TAXABLE YEARS”,

13 (5) by striking “2 prior taxable years” in sub-
 14 section (b)(2)(A) and inserting “4 prior taxable
 15 years”,

16 (6) by striking “2 YEARS” in the heading of
 17 subparagraph (C) of subsection (b)(2) and inserting
 18 “4 YEARS”,

19 (7) by striking “first 2 years” in subsection
 20 (b)(2)(C) and inserting “first 4 years”,

21 (8) by striking “tuition and fees” in subpara-
 22 graph (A) of subsection (f)(1) and inserting “tuition,
 23 fees, and course materials”,

24 (9) by striking paragraphs (1) and (2) of sub-
 25 section (d) and inserting the following new para-
 26 graphs:

1 “(1) HOPE SCHOLARSHIP CREDIT.—The
 2 amount which would (but for this paragraph) be
 3 taken into account under paragraph (1) of sub-
 4 section (a) for the taxable year shall be reduced (but
 5 not below zero) by the amount which bears the same
 6 ratio to the amount which would be so taken into ac-
 7 count as—

8 “(A) the excess of—

9 “(i) the taxpayer’s modified adjusted
 10 gross income for such taxable year, over

11 “(ii) \$80,000 (\$160,000 in the case of
 12 a joint return), bears to

13 “(B) \$10,000 (\$20,000 in the case of a
 14 joint return).

15 “(2) LIFETIME LEARNING CREDIT.—The
 16 amount which would (but for this paragraph) be
 17 taken into account under paragraph (2) of sub-
 18 section (a) for the taxable year shall be reduced (but
 19 not below zero) by the amount which bears the same
 20 ratio to the amount which would be so taken into ac-
 21 count as—

22 “(A) the excess of—

23 “(i) the taxpayer’s modified adjusted
 24 gross income for such taxable year, over

1 “(ii) \$40,000 (\$80,000 in the case of
2 a joint return), bears to

3 “(B) \$10,000 (\$20,000 in the case of a
4 joint return).”,

5 (10) by striking “DOLLAR LIMITATION ON
6 AMOUNT OF CREDIT” in the heading of paragraph
7 (1) of subsection (h) and inserting “HOPE SCHOLAR-
8 SHIP CREDIT”,

9 (11) by striking “2001” in subsection (h)(1)(A)
10 and inserting “2011”,

11 (12) by striking “the \$1,000 amounts under
12 subsection (b)(1)” in subsection (h)(1)(A) and in-
13 serting “the dollar amounts under subsections (b)(1)
14 and (d)(1)”,

15 (13) by striking “calendar year 2000” in sub-
16 section (h)(1)(A)(ii) and inserting “calendar year
17 2010”,

18 (14) by striking “If any amount” and all that
19 follows in subparagraph (B) of subsection (h)(1) and
20 inserting “If any amount under subsection (b)(1) as
21 adjusted under subparagraph (A) is not a multiple
22 of \$100, such amount shall be rounded to the next
23 lowest multiple of \$100. If any amount under sub-
24 section (d)(1) as adjusted under subparagraph (A) is

1 not a multiple of \$1,000, such amount shall be
 2 rounded to the next lowest multiple of \$1,000.”,

3 (15) by inserting “OF LIFETIME LEARNING
 4 CREDIT” after “INCOME LIMITS” in the heading of
 5 paragraph (2) of subsection (h),

6 (16) by adding at the end of subsection (b) the
 7 following new paragraphs:

8 “(4) CREDIT ALLOWED AGAINST ALTERNATIVE
 9 MINIMUM TAX.—In the case of a taxable year to
 10 which section 26(a)(2) does not apply, so much of
 11 the credit allowed under subsection (a) as is attrib-
 12 utable to the Hope Scholarship Credit shall not ex-
 13 ceed the excess of—

14 “(A) the sum of the regular tax liability
 15 (as defined in section 26(b)) plus the tax im-
 16 posed by section 55, over

17 “(B) the sum of the credits allowable
 18 under this subpart (other than this subsection
 19 and sections 23, 25D, and 30D) and section 27
 20 for the taxable year.

21 Any reference in this section or section 24, 25, 25B,
 22 26, 904, or 1400C to a credit allowable under this
 23 subsection shall be treated as a reference to so much
 24 of the credit allowable under subsection (a) as is at-
 25 tributable to the Hope Scholarship Credit.

1 “(5) PORTION OF CREDIT MADE REFUND-
 2 ABLE.—40 percent of so much of the credit allowed
 3 under subsection (a) as is attributable to the Hope
 4 Scholarship Credit (determined after the application
 5 of subsection (d)(1) and without regard to this para-
 6 graph and section 26(a)(2) or paragraph (4), as the
 7 case may be) shall be treated as a credit allowable
 8 under subpart C (and not allowed under subsection
 9 (a)). The preceding sentence shall not apply to any
 10 taxpayer for any taxable year if such taxpayer is a
 11 child to whom subsection (g) of section 1 applies for
 12 such taxable year.”, and

13 (17) by striking subsection (i).

14 (b) CONFORMING AMENDMENTS.—

15 (1) Section 24(b)(3)(B) is amended by striking
 16 “25A(i)” and inserting “25A(b)”.

17 (2) Section 25(e)(1)(C)(ii) is amended by strik-
 18 ing “25A(i)” and inserting “25A(b)”.

19 (3) Section 26(a)(1) is amended by striking
 20 “25A(i)” and inserting “25A(b)”.

21 (4) Section 25B(g)(2) is amended by striking
 22 “25A(i)” and inserting “25A(b)”.

23 (5) Section 904(i) is amended by striking
 24 “25A(i)” and inserting “25A(b)”.

1 (6) Section 1400C(d)(2) is amended by striking
2 “25A(i)” and inserting “25A(b)”.

(7) Section 6211(b)(4)(A) is amended by striking “25A by reason of subsection (i)(6) thereof” and inserting “25A by reason of subsection (b)(5) thereof”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

(d) APPLICATION OF EGTRRA SUNSET.—The amendment made by subsection (b)(1) shall be subject to title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 in the same manner as the provision of such Act to which such amendment relates.

15 SEC. 3. PERMANENT EXTENSION OF CERTAIN EGTRRA PRO-
16 VISIONS RELATING TO EDUCATION.

(a) IN GENERAL.—Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to the amendments made by sections 401, 402, 411, 412, 413, and 431 of such Act.

(b) CONFORMING AMENDMENT.—Section 222 is amended by striking subsection (e).

(c) **EFFECTIVE DATE.**—The amendment made by subsection (b) shall apply to taxable years beginning after December 31, 2009.

1 **SEC. 4. PERMANENT EXTENSION OF DEDUCTION FOR CER-**
 2 **TAIN EXPENSES OF ELEMENTARY AND SEC-**
 3 **ONDARY SCHOOL TEACHERS.**

4 (a) IN GENERAL.—Subparagraph (D) of section
 5 62(a)(2) is amended by striking “during 2002, 2003,
 6 2004, 2005, 2006, 2007, 2008, or 2009” and inserting
 7 “after 2001”.

8 (b) EFFECTIVE DATE.—The amendment made by
 9 this section shall apply to taxable years beginning after
 10 December 31, 2009.

11 **SEC. 5. PERMANENT EXTENSION OF QUALIFIED ZONE**
 12 **ACADEMY BONDS.**

13 (a) IN GENERAL.—Paragraph (1) of section 54E(c)
 14 is amended by striking “and, except as provided in para-
 15 graph (4), zero thereafter” and inserting “and, except as
 16 provided in paragraph (5), \$700,000,000 for each cal-
 17 endar year thereafter”.

18 (b) INFLATION ADJUSTMENT.—Subsection (c) of sec-
 19 tion 54E is amended by adding at the end the following
 20 new paragraph:

21 “(5) INFLATION ADJUSTMENT.—In the case of
 22 any calendar year after 2011, the \$700,000,000
 23 amount in paragraph (1) shall be increased by an
 24 amount equal to—
 25 “(A) such amount, multiplied by

1 “(B) the cost-of-living adjustment deter-
 2 mined under section 1(f)(3) for such calendar
 3 year by substituting ‘calendar year 2010’ for
 4 ‘calendar year 1992’ in subparagraph (B)
 5 thereof.

6 If any increase determined under this paragraph is
 7 not a multiple of \$1,000,000, such increase shall be
 8 rounded to the next lowest multiple of \$1,000,000.”.

9 (c) CREDITS NOT TO BE STRIPPED.—Section 54E
 10 is amended by adding at the end the following new sub-
 11 section:

12 “(e) CREDITS NOT TO BE STRIPPED.—Subsection
 13 (i) of section 54A shall not apply with respect to any quali-
 14 fied zone academy bond.”.

15 (d) DAVIS-BACON RULES NOT TO APPLY TO QZABS
 16 OR SCHOOL CONSTRUCTION BONDS.—Section 1601 of the
 17 American Recovery and Reinvestment Act of 2009 is
 18 amended by striking paragraphs (3) and (4), by inserting
 19 “and” at the end of paragraph (2), and by redesignating
 20 paragraph (5) as paragraph (3).

21 (e) EFFECTIVE DATES.—

22 (1) IN GENERAL.—Except as provided in para-
 23 graph (2), the amendments made by this section
 24 shall apply to obligations issued after December 31,
 25 2010.

1 (2) DAVIS-BACON RULES.—The amendments
 2 made by subsection (d) shall apply to obligations
 3 issued after the date of the enactment of this Act.

4 **SEC. 6. PERMANENT EXTENSION OF SCHOOL CONSTRUCTION BONDS.**
 5

6 (a) IN GENERAL.—Subsection (c) of section 54F is
 7 amended—

8 (1) by striking paragraph (3),

9 (2) by inserting “and” at the end of paragraph

10 (1), and

11 (3) by striking “for 2010, and” in paragraph

12 (2) and inserting “thereafter.”.

13 (b) ALLOCATIONS FOR INDIAN SCHOOLS.—Para-
 14 graph (4) of section 54F(d) is amended by striking “for
 15 calendar year 2010” and inserting “for each calendar year
 16 after 2009”.

17 (c) EXTENSION OF SMALL ISSUER EXCEPTION.—

18 (1) IN GENERAL.—Clause (vii) of section
 19 148(f)(4)(D) is amended by striking “\$10,000,000”
 20 and inserting “\$15,000,000”.

21 (2) ELIMINATION OF EGTRRA SUNSET.—Title
 22 IX of the Economic Growth and Tax Relief Rec-
 23 onciliation Act of 2001 shall not apply to the amend-
 24 ments made by section 421 of such Act.

1 (d) CREDITS NOT TO BE STRIPPED.—Section 54F
 2 is amended by adding at the end the following new sub-
 3 section:

4 “(f) CREDITS NOT TO BE STRIPPED.—Subsection (i)
 5 of section 54A shall not apply with respect to any qualified
 6 school construction bond.”.

7 (e) EFFECTIVE DATE.—The amendments made by
 8 this section shall apply to obligations issued after Decem-
 9 ber 31, 2010.

10 **SEC. 7. PERMANENT EXTENSION AND MODIFICATION OF**
 11 **SECTION 529 RULES.**

12 (a) IN GENERAL.—Clause (iii) of section
 13 529(e)(3)(A) is amended by striking “in 2009 or 2010”.

14 (b) ABILITY TO CHANGE INVESTMENT OPTIONS.—
 15 Subsection (e) of section 529 is amended by adding at the
 16 end the following new paragraph:

17 “(6) ALLOWABLE CHANGE OF INVESTMENT OP-
 18 TIONS.—A program shall not fail to be treated as
 19 meeting the requirements of subsection (b)(4) mere-
 20 ly because such program allows a designated bene-
 21 ficiary to change investment options under the plan
 22 not more than 4 times per year.”.

23 (c) EFFECTIVE DATES.—

1 (1) EXTENSION.—The amendment made by
2 subsection (a) shall apply to taxable years beginning
3 after December 31, 2010.

4 (2) INVESTMENT OPTIONS.—The amendment
5 made by subsection (b) shall apply to taxable years
6 beginning after December 31, 2009.

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