

**Calendar No. 74**113TH CONGRESS  
1ST SESSION**S. 953**

To amend the Higher Education Act of 1965 to extend the reduced interest rate for undergraduate Federal Direct Stafford Loans, to modify required distribution rules for pension plans, to limit earnings stripping by expatriated entities, to provide for modifications related to the Oil Spill Liability Trust Fund, and for other purposes.

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**IN THE SENATE OF THE UNITED STATES**

MAY 14, 2013

Mr. REED (for himself, Mr. HARKIN, Mr. REID, Mrs. MURRAY, Mr. ROCKEFELLER, Ms. BALDWIN, Mr. SCHUMER, Mr. FRANKEN, Mr. BROWN, Mr. MURPHY, Mr. DURBIN, Mrs. GILLIBRAND, Ms. STABENOW, Mr. LAUTENBERG, Mr. WHITEHOUSE, Mr. KAINE, Ms. WARREN, and Mr. JOHNSON of South Dakota) introduced the following bill; which was read the first time

MAY 15, 2013

Read the second time and placed on the calendar

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**A BILL**

To amend the Higher Education Act of 1965 to extend the reduced interest rate for undergraduate Federal Direct Stafford Loans, to modify required distribution rules for pension plans, to limit earnings stripping by expatriated entities, to provide for modifications related to the Oil Spill Liability Trust Fund, 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. SHORT TITLE.**

4 This Act may be cited as the “Student Loan Afford-  
 5 ability Act”.

6 **SEC. 2. INTEREST RATE EXTENSION.**

7 Section 455(b)(7)(D) of the Higher Education Act of  
 8 1965 (20 U.S.C. 1087e(b)(7)(D)) is amended—

9 (1) in the matter preceding clause (i), by strik-  
 10 ing “and before July 1, 2013,” and inserting “and  
 11 before July 1, 2015,”; and

12 (2) in clause (v), by striking “and before July  
 13 1, 2013,” and inserting “and before July 1, 2015,”.

14 **SEC. 3. MODIFICATIONS OF REQUIRED DISTRIBUTION**  
 15 **RULES FOR PENSION PLANS.**

16 (a) IN GENERAL.—Section 401(a)(9)(B) of the Inter-  
 17 nal Revenue Code of 1986 is amended to read as follows:

18 “(B) REQUIRED DISTRIBUTIONS WHERE  
 19 EMPLOYEE DIES BEFORE ENTIRE INTEREST IS  
 20 DISTRIBUTED.—

21 “(i) 5-YEAR GENERAL RULE.—A trust  
 22 shall not constitute a qualified trust under  
 23 this section unless the plan provides that,  
 24 if an employee dies before the distribution  
 25 of the employee’s interest (whether or not

1 such distribution has begun in accordance  
2 with subparagraph (A)), the entire interest  
3 of the employee will be distributed within  
4 5 years after the death of such employee.

5 “(ii) EXCEPTION FOR ELIGIBLE DES-  
6 IGNATED BENEFICIARIES.—If—

7 “(I) any portion of the employ-  
8 ee’s interest is payable to (or for the  
9 benefit of) an eligible designated bene-  
10 ficiary,

11 “(II) such portion will be distrib-  
12 uted (in accordance with regulations)  
13 over the life of such eligible des-  
14 igned beneficiary (or over a period  
15 not extending beyond the life expect-  
16 ancy of such beneficiary), and

17 “(III) such distributions begin  
18 not later than 1 year after the date of  
19 the employee’s death or such later  
20 date as the Secretary may by regula-  
21 tions prescribe,

22 then, for purposes of clause (i) and except  
23 as provided in clause (iv) or subparagraph  
24 (E)(iii), the portion referred to in sub-

1 clause (I) shall be treated as distributed on  
2 the date on which such distributions begin.

3 “(iii) SPECIAL RULE FOR SURVIVING  
4 SPOUSE OF EMPLOYEE.—If the eligible  
5 designated beneficiary referred to in clause  
6 (ii)(I) is the surviving spouse of the em-  
7 ployee—

8 “(I) the date on which the dis-  
9 tributions are required to begin under  
10 clause (ii)(III) shall not be earlier  
11 than the date on which the employee  
12 would have attained age 70½, and

13 “(II) if the surviving spouse dies  
14 before the distributions to such spouse  
15 begin, this subparagraph shall be ap-  
16 plied as if the surviving spouse were  
17 the employee.

18 “(iv) RULES UPON DEATH OF ELIGI-  
19 BLE DESIGNATED BENEFICIARY.—If an el-  
20 igible designated beneficiary dies before the  
21 portion of an employee’s interest described  
22 in clause (ii) is entirely distributed, clause  
23 (ii) shall not apply to any beneficiary of  
24 such eligible designated beneficiary and the  
25 remainder of such portion shall be distrib-

1                   uted within 5 years after the death of such  
2                   beneficiary.”.

3           (b) DEFINITION OF ELIGIBLE DESIGNATED BENE-  
4 FICIARY.—Section 401(a)(9)(E) of the Internal Revenue  
5 Code of 1986 is amended to read as follows:

6                   “(E) DEFINITIONS AND RULES RELATING  
7                   TO DESIGNATED BENEFICIARY.—For purposes  
8                   of this paragraph—

9                   “(i) DESIGNATED BENEFICIARY.—The  
10                   term ‘designated beneficiary’ means any  
11                   individual designated as a beneficiary by  
12                   the employee.

13                   “(ii) ELIGIBLE DESIGNATED BENE-  
14 FICIARY.—The term ‘eligible designated  
15 beneficiary’ means, with respect to any em-  
16 ployee, any designated beneficiary who, as  
17 of the date of death of the employee, is—

18                   “(I) the surviving spouse of the  
19                   employee,

20                   “(II) subject to clause (iii), a  
21                   child of the employee who has not  
22                   reached majority (within the meaning  
23                   of subparagraph (F)),

24                   “(III) disabled (within the mean-  
25                   ing of section 72(m)(7)),

1                   “(IV) a chronically ill individual  
2                   (within the meaning of section  
3                   7702B(c)(2), except that the require-  
4                   ments of subparagraph (A)(i) thereof  
5                   shall only be treated as met if there is  
6                   a certification that, as of such date,  
7                   the period of inability described in  
8                   such subparagraph with respect to the  
9                   individual is an indefinite one that is  
10                  reasonably expected to be lengthy in  
11                  nature), or

12                  “(V) an individual not described  
13                  in any of the preceding subparagraphs  
14                  who is not more than 10 years young-  
15                  er than the employee.

16                  “(iii) SPECIAL RULE FOR CHIL-  
17                  DREN.—Subject to subparagraph (F), an  
18                  individual described in clause (ii)(II) shall  
19                  cease to be an eligible designated bene-  
20                  ficiary as of the date the individual reaches  
21                  majority and the requirement of subpara-  
22                  graph (B)(i) shall not be treated as met  
23                  with respect to any remaining portion of  
24                  an employee’s interest payable to the indi-

1           vidual unless such portion is distributed  
2           within 5 years after such date.”.

3           (c)    REQUIRED    BEGINNING    DATE.—Section  
4 401(a)(9)(C) of the Internal Revenue Code of 1986 is  
5 amended by adding at the end the following new clause:

6                   “(v)   EMPLOYEES   BECOMING   5-PER-  
7                   CENT   OWNERS   AFTER   AGE   70<sup>1</sup>/<sub>2</sub>.—If an  
8                   employee becomes a 5-percent owner (as  
9                   defined in section 416) with respect to a  
10                  plan year ending in a calendar year after  
11                  the calendar year in which the employee  
12                  attains age 70<sup>1</sup>/<sub>2</sub>, then clause (i)(II) shall  
13                  be applied by substituting the calendar  
14                  year in which the employee became such  
15                  an owner for the calendar year in which  
16                  the employee retires.”.

17          (d)   EFFECTIVE DATES.—

18                  (1)   IN GENERAL.—Except as provided in this  
19                  subsection, the amendments made by this section  
20                  shall apply to distributions with respect to employees  
21                  who die after December 31, 2013.

22                  (2)   REQUIRED BEGINNING DATE.—

23                          (A)   IN GENERAL.—The amendment made  
24                          by subsection (c) shall apply to employees be-  
25                          coming a 5-percent owner with respect to plan

1 years ending in calendar years beginning before,  
2 on, or after the date of the enactment of this  
3 Act.

4 (B) SPECIAL RULE.—If—

5 (i) an employee became a 5-percent  
6 owner with respect to a plan year ending  
7 in a calendar year which began before Jan-  
8 uary 1, 2013, and

9 (ii) the employee has not retired be-  
10 fore calendar year 2014,

11 such employee shall be treated as having be-  
12 come a 5-percent owner with respect to a plan  
13 year ending in 2013 for purposes of applying  
14 section 401(a)(9)(C)(v) of the Internal Revenue  
15 Code of 1986 (as added by the amendment  
16 made by subsection (c)).

17 (3) EXCEPTION FOR CERTAIN BENE-  
18 FICIARIES.—If a designated beneficiary of an em-  
19 ployee who dies before January 1, 2014, dies after  
20 December 31, 2013—

21 (A) the amendments made by this section  
22 shall apply to any beneficiary of such des-  
23 ignated beneficiary, and

24 (B) the designated beneficiary shall be  
25 treated as an eligible designated beneficiary for



1 purposes of applying section 401(a)(9)(B)(iv) of  
2 such Code (as in effect after the amendments  
3 made by this section).

4 (4) EXCEPTION FOR CERTAIN EXISTING ANNU-  
5 ITY CONTRACTS.—

6 (A) IN GENERAL.—The amendments made  
7 by this section shall not apply to a qualified an-  
8 nuity which is a binding annuity contract in ef-  
9 fect on the date of the enactment of this Act  
10 and at all times thereafter.

11 (B) QUALIFIED ANNUITY CONTRACT.—For  
12 purposes of this paragraph, the term “qualified  
13 annuity” means, with respect to an employee,  
14 an annuity—

15 (i) which is a commercial annuity (as  
16 defined in section 3405(e)(6) of such  
17 Code) or payable by a defined benefit plan,

18 (ii) under which the annuity payments  
19 are substantially equal periodic payments  
20 (not less frequently than annually) over the  
21 lives of such employee and a designated  
22 beneficiary (or over a period not extending  
23 beyond the life expectancy of such em-  
24 ployee or the life expectancy of such em-  
25 ployee and a designated beneficiary) in ac-

1 cordance with the regulations described in  
2 section 401(a)(9)(A)(ii) of such Code (as  
3 in effect before such amendments) and  
4 which meets the other requirements of this  
5 section 401(a)(9) of such Code (as so in  
6 effect) with respect to such payments, and  
7 (iii) with respect to which—

8 (I) annuity payments to the em-  
9 ployee have begun before January 1,  
10 2014, and the employee has made an  
11 irrevocable election before such date  
12 as to the method and amount of the  
13 annuity payments to the employee or  
14 any designated beneficiaries, or

15 (II) if subclause (I) does not  
16 apply, the employee has made an ir-  
17 revocable election before the date of  
18 the enactment of this Act as to the  
19 method and amount of the annuity  
20 payments to the employee or any des-  
21 ignated beneficiaries.

22 **SEC. 4. LIMITATION ON EARNINGS STRIPPING BY EXPATRI-**  
23 **ATED ENTITIES.**

24 (a) IN GENERAL.—Subsection (j) of section 163 of  
25 the Internal Revenue Code of 1986 is amended—

1           (1) by redesignating paragraph (9) as para-  
2 graph (10), and

3           (2) by inserting after paragraph (8) the fol-  
4 lowing new paragraph:

5           “(9) SPECIAL RULES FOR EXPATRIATED ENTI-  
6 TIES.—

7           “(A) IN GENERAL.—In the case of a cor-  
8 poration to which this subsection applies which  
9 is an expatriated entity, this subsection shall  
10 apply to such corporation with the following  
11 modifications:

12                   “(i) Paragraph (2)(A) shall be applied  
13 without regard to clause (ii) thereof.

14                   “(ii) Paragraph (1)(B) shall be ap-  
15 plied—

16                           “(I) without regard to the par-  
17 enthetical, and

18                                   “(II) by substituting ‘in the 1st  
19 succeeding taxable year and in the  
20 2nd through 10th succeeding taxable  
21 years to the extent not previously  
22 taken into account under this sub-  
23 paragraph’ for ‘in the succeeding tax-  
24 able year’.

1                   “(iii) Paragraph (2)(B) shall be ap-  
2                   plied—

3                                 “(I) without regard to clauses (ii)  
4                                 and (iii), and

5                                 “(II) by substituting ‘25 percent  
6                                 of the adjusted taxable income of the  
7                                 corporation for such taxable year’ for  
8                                 the matter of clause (i)(II) thereof.

9                                 “(B) EXPATRIATED ENTITY.—For pur-  
10                                 poses of this paragraph—

11                                 “(i) IN GENERAL.—With respect to a  
12                                 corporation and a taxable year, the term  
13                                 ‘expatriated entity’ has the meaning given  
14                                 such term by section 7874(a)(2), deter-  
15                                 mined as if such section and the regula-  
16                                 tions under such section as in effect on the  
17                                 first day of such taxable year applied to all  
18                                 taxable years of the corporation beginning  
19                                 after July 10, 1989.

20                                 “(ii) EXCEPTION FOR SURROGATES  
21                                 TREATED AS A DOMESTIC CORPORATION.—  
22                                 The term ‘expatriated entity’ does not in-  
23                                 clude a surrogate foreign corporation  
24                                 which is treated as a domestic corporation  
25                                 by reason of section 7874(b).”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 the date of the enactment of this Act.

4 **SEC. 5. MODIFICATIONS RELATED TO THE OIL SPILL LI-**  
5 **ABILITY TRUST FUND.**

6 (a) DEFINITION OF CRUDE OIL.—Paragraph (1) of  
7 section 4612(a) of the Internal Revenue Code of 1986 is  
8 amended to read as follows:

9 “(1) CRUDE OIL.—The term ‘crude oil’ includes  
10 crude oil condensates, natural gasoline, any bitumen  
11 or bituminous mixture, and any oil derived from a  
12 bitumen or bituminous mixture.”.

13 (b) REMOVING RESTRICTIONS RELATING TO OIL  
14 WELLS AND EXTRACTION METHODS.—Paragraph (2) of  
15 section 4612(a) of the Internal Revenue Code of 1986 is  
16 amended by striking “from a well located”.

17 (c) PERMANENT EXTENSION OF OIL SPILL LIABIL-  
18 ITY TRUST FUND FINANCING RATE.—Section 4611(f) is  
19 amended by striking subsection (f).

20 (d) CLERICAL AMENDMENT.—Subclause (I) of sec-  
21 tion 4612(e)(2)(B)(ii) of the Internal Revenue Code of  
22 1986 is amended by striking “tranferred” and inserting  
23 “transferred”.

24 (e) EFFECTIVE DATE.—The amendments made by  
25 subsections (a) and (b) shall apply to crude oil and petro-

1 leum products received or entered during calendar quar-  
2 ters beginning more than 60 days after the date of the  
3 enactment of this Act.

4 **SEC. 6. RESERVING RESULTING SURPLUSES FOR DEFICIT**  
5 **REDUCTION.**

6 (a) PAYGO SCORECARD.—The budgetary effects of  
7 this Act shall not be entered on either PAYGO scorecard  
8 maintained pursuant to section 4(d) of the Statutory Pay-  
9 As-You-Go Act of 2010 (2 U.S.C. 933(d)).

10 (b) SENATE PAYGO SCORECARD.—The budgetary ef-  
11 fects of this Act shall not be entered on any PAYGO score-  
12 card maintained for purposes of section 201 of S. Con.  
13 Res. 21 (110th Congress).



**Calendar No. 74**

113<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session  
**S. 953**

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**A BILL**

To amend the Higher Education Act of 1965 to extend the reduced interest rate for undergraduate Federal Direct Stafford Loans, to modify required distribution rules for pension plans, to limit earnings stripping by expatriated entities, to provide for modifications related to the Oil Spill Liability Trust Fund, and for other purposes.

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