

112TH CONGRESS  
1ST SESSION

# S. 1403

To amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part.

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## IN THE SENATE OF THE UNITED STATES

JULY 21, 2011

Mr. HARKIN (for himself, Mr. DURBIN, Mr. BLUMENTHAL, Mr. LAUTENBERG, Mrs. MURRAY, Mr. WHITEHOUSE, Mr. LEAHY, Mr. BENNET, Mr. FRANKEN, Ms. MIKULSKI, Mr. REED, Mrs. SHAHEEN, Mr. JOHNSON of South Dakota, and Mr. BEGICH) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend part B of the Individuals with Disabilities Education Act to provide full Federal funding of such part.

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 “IDEA Full Funding  
5 Act”.

6 **SEC. 2. AMENDMENTS TO IDEA.**

7 Section 611(i) of the Individuals with Disabilities  
8 Education Act (20 U.S.C. 1411(i)) is amended to read  
9 as follows:

1       “(i) FUNDING.—For the purpose of carrying out this  
2 part, other than section 619, there are authorized to be  
3 appropriated—

4           “(1) \$12,664,883,000 for fiscal year 2012, and  
5 there are hereby appropriated, out of any money in  
6 the Treasury not otherwise appropriated,  
7 \$1,182,683,000 for fiscal year 2012, which shall be-  
8 come available for obligation on July 1, 2012, and  
9 shall remain available through September 30, 2013;

10          “(2) \$13,988,168,000 for fiscal year 2013, and  
11 there are hereby appropriated, out of any money in  
12 the Treasury not otherwise appropriated,  
13 \$2,505,968,000 for fiscal year 2013, which shall be-  
14 come available for obligation on July 1, 2013, and  
15 shall remain available through September 30, 2014;

16          “(3) \$15,468,770,000 for fiscal year 2014, and  
17 there are hereby appropriated, out of any money in  
18 the Treasury not otherwise appropriated,  
19 \$3,986,570,000 for fiscal year 2014, which shall be-  
20 come available for obligation on July 1, 2014, and  
21 shall remain available through September 30, 2015;

22          “(4) \$17,125,392,000 for fiscal year 2015, and  
23 there are hereby appropriated, out of any money in  
24 the Treasury not otherwise appropriated,  
25 \$5,643,192,000 for fiscal year 2015, which shall be-

1       come available for obligation on July 1, 2015, and  
2       shall remain available through September 30, 2016;

3               “(5) \$18,978,960,000 for fiscal year 2016, and  
4       there are hereby appropriated, out of any money in  
5       the Treasury not otherwise appropriated,  
6       \$7,496,760,000 for fiscal year 2016, which shall be-  
7       come available for obligation on July 1, 2016, and  
8       shall remain available through September 30, 2017;

9               “(6) \$21,052,886,000 for fiscal year 2017, and  
10       there are hereby appropriated, out of any money in  
11       the Treasury not otherwise appropriated,  
12       \$9,570,686,000 for fiscal year 2017, which shall be-  
13       come available for obligation on July 1, 2017, and  
14       shall remain available through September 30, 2018;

15               “(7) \$23,373,370,000 for fiscal year 2018, and  
16       there are hereby appropriated, out of any money in  
17       the Treasury not otherwise appropriated,  
18       \$11,891,170,000 for fiscal year 2018, which shall  
19       become available for obligation on July 1, 2018, and  
20       shall remain available through September 30, 2019;

21               “(8) \$25,969,721,000 for fiscal year 2019, and  
22       there are hereby appropriated, out of any money in  
23       the Treasury not otherwise appropriated,  
24       \$14,487,521,000 for fiscal year 2019, which shall

1       become available for obligation on July 1, 2019, and  
2       shall remain available through September 30, 2020;

3               “(9) \$28,874,737,000 for fiscal year 2020, and  
4       there are hereby appropriated, out of any money in  
5       the Treasury not otherwise appropriated,  
6       \$17,392,537,000 for fiscal year 2020, which shall  
7       become available for obligation on July 1, 2020, and  
8       shall remain available through September 30, 2021;  
9       and

10              “(10) \$35,308,178,000 for fiscal year 2021,  
11       and there are hereby appropriated, out of any money  
12       in the Treasury not otherwise appropriated,  
13       \$23,825,978,000 for fiscal year 2021, which shall  
14       become available for obligation on July 1, 2021, and  
15       shall remain available through September 30,  
16       2022.”.

17 **SEC. 3. TOBACCO TAX INCREASE AND PARITY.**

18       (a) **SHORT TITLE.**—This section may be cited as the  
19 “Saving Lives by Lowering Tobacco Use Act”.

20       (b) **INCREASE IN EXCISE TAX ON SMALL CIGARS**  
21 **AND CIGARETTES.**—

22              (1) **SMALL CIGARS.**—Section 5701(a)(1) of the  
23 Internal Revenue Code of 1986 is amended by strik-  
24 ing “\$50.33” and inserting “\$100.50”.

1           (2) CIGARETTES.—Section 5701(b) of such  
2 Code is amended—

3           (A) by striking “\$50.33” in paragraph (1)  
4 and inserting “\$100.50”, and

5           (B) by striking “\$105.69” in paragraph  
6 (2) and inserting “\$211.04”.

7           (c) TAX PARITY FOR PIPE TOBACCO AND ROLL-  
8 YOUR-OWN TOBACCO.—

9           (1) PIPE TOBACCO.—Section 5701(f) of the In-  
10 ternal Revenue Code of 1986 is amended by striking  
11 “\$2.8311 cents” and inserting “\$49.55”.

12           (2) ROLL-YOUR-OWN TOBACCO.—Section  
13 5701(g) of such Code is amended by striking  
14 “\$24.78” and inserting “\$49.55”.

15           (d) CLARIFICATION OF DEFINITION OF SMALL CI-  
16 GARS.—Paragraphs (1) and (2) of section 5701(a) of the  
17 Internal Revenue Code of 1986 are each amended by  
18 striking “three pounds per thousand” and inserting “four  
19 and one-half pounds per thousand”.

20           (e) CLARIFICATION OF DEFINITION OF CIGA-  
21 RETTE.—Paragraph (2) of section 5702(b) of the Internal  
22 Revenue Code of 1986 is amended by inserting before the  
23 final period the following: “, which includes any roll for  
24 smoking containing tobacco that weighs no more than four  
25 and a half pounds per thousand, unless it is wrapped in

1 whole tobacco leaf and does not have a cellulose acetate  
2 or other cigarette-style filter”.

3 (f) TAX PARITY FOR SMOKELESS TOBACCO.—

4 (1) IN GENERAL.—Section 5701(e) of the Inter-  
5 nal Revenue Code of 1986 is amended—

6 (A) in paragraph (1), by striking “\$1.51”  
7 and inserting “\$26.79”;

8 (B) in paragraph (2), by striking “50.33  
9 cents” and inserting “\$10.72”; and

10 (C) by adding at the end the following:

11 “(3) SMOKELESS TOBACCO SOLD IN DISCRETE  
12 SINGLE-USE UNITS.—On discrete single-use units,  
13 \$100.50 per each 1,000 single-use units.”.

14 (2) DISCRETE SINGLE-USE UNIT.—Section  
15 5702(m) of such Code is amended—

16 (A) in paragraph (1), by striking “or chew-  
17 ing tobacco” and inserting “chewing tobacco,  
18 discrete single-use unit”;

19 (B) in paragraphs (2) and (3), by inserting  
20 “that is not a discrete single-use unit” before  
21 the period in each such paragraph; and

22 (C) by adding at the end the following:

23 “(4) DISCRETE SINGLE-USE UNIT.—The term  
24 ‘discrete single-use unit’ means any product con-  
25 taining tobacco that—

1           “(A) is intended or expected to be con-  
2           sumed without being combusted; and

3           “(B) is in the form of a lozenge, tablet,  
4           pill, pouch, dissolvable strip, or other discrete  
5           single-use or single-dose unit.”.

6           (3) OTHER TOBACCO PRODUCTS.—Section 5701  
7           of such Code is amended by adding at the end the  
8           following new subsection:

9           “(i) OTHER TOBACCO PRODUCTS.—Any product not  
10          otherwise described under this section that has been deter-  
11          mined to be a tobacco product by the Food and Drug Ad-  
12          ministration through its authorities under the Family  
13          Smoking Prevention and Control Act shall be taxed at a  
14          level of tax equivalent to the tax rate for cigarettes on  
15          an estimated per use basis as determined by the Sec-  
16          retary.”.

17          (g) CLARIFYING OTHER TOBACCO TAX DEFINI-  
18          TIONS.—

19               (1) TOBACCO PRODUCT DEFINITION.—Section  
20               5702(e) of the Internal Revenue Code of 1986 is  
21               amended by inserting before the period the fol-  
22               lowing: “, and any other product containing tobacco  
23               that is intended or expected to be consumed”.

24               (2) CIGARETTE PAPER DEFINITION.—Section  
25               5702(e) of such Code is amended by striking “except

1 tobacco,” and inserting “or cigar (other than roll-  
2 your-own tobacco)”.

3 (3) CIGARETTE TUBE DEFINITION.—Section  
4 5702(f) of such Code is amended by inserting before  
5 the period “or cigars”.

6 (4) IMPORTER DEFINITION.—Section 5702(k)  
7 of such Code is amended by inserting “or any other  
8 tobacco product” after “cigars or cigarettes”.

9 (h) INFLATION ADJUSTMENT.—Section 5701 of the  
10 Internal Revenue Code of 1986, as amended by subsection  
11 (f)(3), is amended by adding at the end the following new  
12 subsection:

13 “(j) INFLATION ADJUSTMENT.—In the case of any  
14 calendar year after 2013, each amount set forth in this  
15 section shall be increased by an amount equal to—

16 “(1) such amount, multiplied by

17 “(2) the cost-of-living adjustment determined  
18 under section 1(f)(3) for such calendar year by sub-  
19 stituting ‘calendar year 2012’ for ‘calendar year  
20 1992’ in subparagraph (B) thereof.”.

21 (i) FLOOR STOCKS TAXES.—

22 (1) IMPOSITION OF TAX.—On tobacco products  
23 manufactured in or imported into the United States  
24 which are removed before any tax increase date and  
25 held on such date for sale by any person, there is



1 hereby imposed a tax in an amount equal to the ex-  
2 cess of—

3 (A) the tax which would be imposed under  
4 section 5701 of the Internal Revenue Code of  
5 1986 on the article if the article had been re-  
6 moved on such date, over

7 (B) the prior tax (if any) imposed under  
8 section 5701 of such Code on such article.

9 (2) CREDIT AGAINST TAX.—Each person shall  
10 be allowed as a credit against the taxes imposed by  
11 paragraph (1) an amount equal to \$500. Such credit  
12 shall not exceed the amount of taxes imposed by  
13 paragraph (1) on such date for which such person  
14 is liable.

15 (3) LIABILITY FOR TAX AND METHOD OF PAY-  
16 MENT.—

17 (A) LIABILITY FOR TAX.—A person hold-  
18 ing tobacco products on any tax increase date  
19 to which any tax imposed by paragraph (1) ap-  
20 plies shall be liable for such tax.

21 (B) METHOD OF PAYMENT.—The tax im-  
22 posed by paragraph (1) shall be paid in such  
23 manner as the Secretary shall prescribe by reg-  
24 ulations.

1           (C) TIME FOR PAYMENT.—The tax im-  
2           posed by paragraph (1) shall be paid on or be-  
3           fore the date that is 120 days after the effective  
4           date of the tax rate increase.

5           (4) ARTICLES IN FOREIGN TRADE ZONES.—  
6           Notwithstanding the Act of June 18, 1934 (com-  
7           monly known as the Foreign Trade Zone Act, 48  
8           Stat. 998, 19 U.S.C. 81a et seq.), or any other pro-  
9           vision of law, any article which is located in a for-  
10          eign trade zone on any tax increase date shall be  
11          subject to the tax imposed by paragraph (1) if—

12           (A) internal revenue taxes have been deter-  
13           mined, or customs duties liquidated, with re-  
14           spect to such article before such date pursuant  
15           to a request made under the 1st proviso of sec-  
16           tion 3(a) of such Act, or

17           (B) such article is held on such date under  
18           the supervision of an officer of the United  
19           States Customs and Border Protection of the  
20           Department of Homeland Security pursuant to  
21           the 2d proviso of such section 3(a).

22          (5) DEFINITIONS.—For purposes of this sub-  
23          section—

24           (A) IN GENERAL.—Any term used in this  
25          subsection which is also used in section 5702 of

1           such Code shall have the same meaning as such  
2           term has in such section.

3           (B) TAX INCREASE DATE.—The term “tax  
4           increase date” means the effective date of any  
5           increase in any tobacco product excise tax rate  
6           pursuant to the amendments made by this sec-  
7           tion (other than subsection (g) thereof).

8           (C) SECRETARY.—The term “Secretary”  
9           means the Secretary of the Treasury or the  
10          Secretary’s delegate.

11          (6) CONTROLLED GROUPS.—Rules similar to  
12          the rules of section 5061(e)(3) of such Code shall  
13          apply for purposes of this subsection.

14          (7) OTHER LAWS APPLICABLE.—All provisions  
15          of law, including penalties, applicable with respect to  
16          the taxes imposed by section 5701 of such Code  
17          shall, insofar as applicable and not inconsistent with  
18          the provisions of this subsection, apply to the floor  
19          stocks taxes imposed by paragraph (1), to the same  
20          extent as if such taxes were imposed by such section  
21          5701. The Secretary may treat any person who bore  
22          the ultimate burden of the tax imposed by para-  
23          graph (1) as the person to whom a credit or refund  
24          under such provisions may be allowed or made.

1       (j) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to articles removed (as defined in  
3 section 5702(j) of the Internal Revenue Code of 1986)  
4 after December 31, 2011.

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