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114TH CONGRESS
1ST SESSION

H. R. 1131

To amend the Higher Education Act of 1965 to provide for the refinancing of certain Federal student loans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2015

Mr. MCDERMOTT introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Ways and Means and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend the Higher Education Act of 1965 to provide for the refinancing of certain Federal student loans, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fairness in Student Loan Lending Act''.

SEC. 2. REFINANCING PROGRAMS.

(a) PROGRAM AUTHORITY.—Section 451(a) of the Higher Education Act of 1965 (20 U.S.C. 1087a(a)) is amended—

(1) by striking "and (2)" and inserting "(2)"; and

(2) by inserting "; and (3) to make loans under section 460A and section 460B" after "section 459A".

(b) REFINANCING PROGRAM.—Part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) is amended by adding at the end the following:

"SEC. 460A. REFINANCING FFEL AND FEDERAL DIRECT LOANS.

"(a) IN GENERAL.—Beginning not later than 180 days after the date of enactment of the Fairness in Student Loan Lending Act, the Secretary shall establish a program under which the Secretary, upon the receipt of an application from a qualified borrower, reissues the borrower's original loan under this part or part B as a loan under this part, in accordance with the provisions of this section, in order to permit the borrower to obtain the interest rate provided under subsection (c)).

"(b) REISSUING LOANS.—

"(1) FEDERAL DIRECT LOANS.—Upon application of a qualified borrower, the Secretary shall re-

issue a Federal Direct Stafford Loan, a Federal Direct Unsubsidized Stafford Loan, a Federal Direct PLUS Loan, or a Federal Direct Consolidation Loan of the qualified borrower, for which the first disbursement was made, or the application for the reissuance of a loan under this section was received before July 1, 2015, in an amount equal to the sum of—

"(A) the unpaid principal, accrued unpaid interest, and late charges of the original loan; and

"(B) the administrative fee under subsection (d)(3).

"(2) DISCHARGING AND REISSUING FFEL PROGRAM LOANS AS REFINANCED FEDERAL DIRECT LOANS.—Upon application of a qualified borrower for any loan that was made, insured, or guaranteed under part B and for which the first disbursement was made before July 1, 2010, the Secretary shall reissue such loan as a loan under this part, in an amount equal to the sum of the unpaid principal, accrued unpaid interest, and late charges of the original loan and the administrative fee under subsection (d)(3), to the borrower in accordance with the following:

"(A) The Secretary shall pay the proceeds of such reissued loan to the eligible lender of the loan made, insured, or guaranteed under part B, in order to discharge the borrower from any remaining obligation to the lender with respect to the original loan.

"(B) The Secretary shall reissue—

"(i) a loan originally made, insured, or guaranteed under section 428 as a Federal Direct Stafford Loan;

"(ii) a loan originally made, insured, or guaranteed under section 428B as a Federal Direct PLUS Loan;

"(iii) a loan originally made, insured, or guaranteed under section 428H as a Federal Direct Unsubsidized Stafford Loan; and

"(iv) a loan originally made, insured, or guaranteed under section 428C as a Federal Direct Consolidation Loan.

"(C) The interest rate for each loan reissued under this paragraph shall be the rate provided under subsection (c)).

"(c) INTEREST RATE.—

"(1) IN GENERAL.—The interest rate for the reissued Federal Direct Stafford Loans, Federal Direct Unsubsidized Stafford Loans, Federal Direct PLUS Loans, and Federal Direct Consolidation Loans, shall be a rate equal to the high yield of the 10-year Treasury note auctioned at the final auction held prior to the first day of the month in which the application for reissuance under this section is received, plus 1.0 percent.

"(2) FIXED RATE.—The applicable rate of interest determined under paragraph (1) for a reissued loan under this section shall be fixed for the period of the loan.

"(d) TERMS AND CONDITIONS OF LOANS.—

"(1) IN GENERAL.—A loan that is reissued under this section shall have the same terms and conditions as the original loan, except as otherwise provided in this section.

"(2) NO AUTOMATIC EXTENSION OF REPAYMENT PERIOD.—Reissuing a loan under this section shall not result in the extension of the duration of the repayment period of the loan, and the borrower shall retain the same repayment term that was in effect on the original loan. Nothing in this paragraph shall be construed to prevent a borrower from elect-

ing a different repayment plan at any time in accordance with section 455(d)(3).

"(3) ADMINISTRATIVE FEE.—The Secretary shall charge the borrower of a loan reissued under this section an administrative fee of not more than 0.5 percent of the sum of the unpaid principal, accrued unpaid interest, and late charges, of the original loan.

"(e) DEFINITION OF QUALIFIED BORROWER.—

"(1) IN GENERAL.—The term 'qualified borrower' means a borrower—

"(A) of a loan under this part or part B for which the first disbursement was made, or the application for reissuance under this section was received, before July 1, 2015; and

"(B) who meets the eligibility requirements based on income or debt-to-income ratio established by the Secretary.

"(2) INCOME REQUIREMENTS.—Not later than 180 days after the date of enactment of the Fairness in Student Loan Lending Act, the Secretary shall establish eligibility requirements based on income or debt-to-income ratio that take into consideration providing access to refinancing under this section for borrowers with the greatest financial need.

"(f) EXPIRATION OF AUTHORITY.—The Secretary's authority to reissue loans under this section shall expire on the date that is determined in accordance with section 4 of the Fairness in Student Loan Lending Act.

"SEC. 460B. FEDERAL DIRECT REFINANCED PRIVATE LOAN PROGRAM.

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE PRIVATE EDUCATION LOAN.—The term 'eligible private education loan' means a private education loan, as defined in section 140 of the Truth in Lending Act (15 U.S.C. 1650), that—

"(A) was disbursed to the borrower before July 1, 2015; and

"(B) was for the borrower's own postsecondary educational expenses for an eligible program at an institution of higher education participating in the loan program under this part or part B, as of the date that the loan was disbursed.

"(2) FEDERAL DIRECT REFINANCED PRIVATE LOAN.—The term 'Federal Direct Refinanced Private Loan' means a loan issued under subsection (b)(1).

"(3) PRIVATE EDUCATIONAL LENDER.—The term 'private educational lender' has the meaning

given the term in section 140 of the Truth in Lending Act (15 U.S.C. 1650).

"(4) QUALIFIED BORROWER.—The term 'qualified borrower' means an individual who—

"(A) has an eligible private education loan;

"(B) has been current on payments on the eligible private education loan for the 6 months prior to the date of the qualified borrower's application for refinancing under this section, and is in good standing on the loan at the time of such application;

"(C) is not in default on the eligible private education loan or on any loan made, insured, or guaranteed under this part or part B or E; and

"(D) meets the eligibility requirements based on income or debt-to-income ratio established by the Secretary under subsection (b)(2).

"(b) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Treasury, shall carry out a program under which the Secretary, upon application by a qualified borrower, shall issue such borrower a loan under this part in accordance with the following:

"(A) The loan issued under this program shall be in an amount equal to the sum of the unpaid principal, accrued unpaid interest, and late charges of the private education loan and the origination fee under subsection (f).

"(B) The Secretary shall pay the proceeds of the loan issued under this program to the private educational lender of the private education loan, in order to discharge the qualified borrower from any remaining obligation to the lender with respect to the original loan.

"(C) The Secretary shall require that the qualified borrower undergo loan counseling that provides all of the information and counseling required under clauses (i) through (viii) of section 485(b)(1)(A) before the loan is reissued in accordance with this section, and before the proceeds of such loan are paid to the private educational lender.

"(D) The Secretary shall issue the loan as a Federal Direct Refinanced Private Loan, which shall have the same terms, conditions, and benefits as a Federal Direct Unsubsidized Stafford Loan, except as otherwise provided in this section.

"(2) INCOME REQUIREMENTS.—Not later than 180 days after the date of enactment of the Fairness in Student Loan Lending Act, the Secretary shall establish eligibility requirements based on income or debt-to-income ratio that take into consideration providing access to refinancing under this section for borrowers with the greatest financial need.

"(c) INTEREST RATE.—

"(1) IN GENERAL.—The interest rate for a Federal Direct Refinanced Private Loan shall be a rate equal to the high yield of the 10-year Treasury note auctioned at the final auction held prior to the first day of the month in which the application for reissuance under this section is received, plus 1.0 percent.

"(2) FIXED RATE.—The applicable rate of interest determined under this subsection for a Federal Direct Refinanced Private Loan shall be fixed for the period of the loan.

"(d) NO INCLUSION IN AGGREGATE LIMITS.—The amount of a Federal Direct Refinanced Private Loan, or a Federal Direct Consolidated Loan to the extent such loan was used to repay a Federal Direct Refinanced Private Loan, shall not be included in calculating a bor-

rower's annual or aggregate loan limits under section 428 or 428H.

"(e) NO ELIGIBILITY FOR SERVICE-RELATED REPAYMENT.—Notwithstanding sections 428K(a)(2)(A), 428L(b)(2), 455(m)(3)(A), and 460(b), a Federal Direct Refinanced Private Loan, or any Federal Direct Consolidation Loan to the extent such loan was used to repay a Federal Direct Refinanced Private Loan, shall not be eligible for any loan repayment or loan forgiveness program under section 428K, 428L, or 460 or for the repayment plan for public service employees under section 455(m).

"(f) ORIGINATION FEE.—The Secretary shall charge the borrower of a Federal Direct Refinanced Private Loan an origination fee that equals the origination fee charged for Federal Direct Unsubsidized Stafford Loans disbursed on the date upon which the Federal Direct Refinanced Private Loan is issued.

"(g) EXPIRATION OF AUTHORITY.—The Secretary's authority to reissue loans under this section shall expire on the date that is determined in accordance with section 4 of the Fairness in Student Loan Lending Act.".

(c) AMENDMENTS TO PUBLIC SERVICE REPAYMENT PLAN PROVISIONS.—Section 455(m) of the Higher Education Act of 1965 (20 U.S.C. 1087e(m)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(2) by inserting after paragraph (2) the following:

"(3) SPECIAL RULES FOR SECTION 460A LOANS.—

"(A) REFINANCED FEDERAL DIRECT LOANS.—Notwithstanding paragraph (1), in determining the number of monthly payments that meet the requirements of such paragraph for an eligible Federal Direct Loan reissued under section 460A that was originally a loan under this part, the Secretary shall include all monthly payments made on the original loan that meet the requirements of such paragraph.

"(B) REFINANCED FFEL LOANS.—In the case of an eligible Federal Direct Loan reissued under section 460A that was originally a loan under part B, only monthly payments made after the date on which the loan was reissued may be included for purposes of paragraph (1)."; and

(3) in paragraph (4)(A) (as redesignated by paragraph (1) of this subsection), by inserting "(including any Federal Direct Stafford Loan, Federal

Direct PLUS Loan, Federal Direct Unsubsidized Stafford Loan, or Federal Direct Consolidation Loan reissued under section 460A)'' before the period at the end.

(d) INCOME-BASED REPAYMENT.—Section 493C of the Higher Education Act of 1965 (20 U.S.C. 1098e) is amended by adding at the end the following:

''(f) SPECIAL RULE FOR REFINANCED LOANS.—

''(1) REFINANCED FEDERAL DIRECT AND FFEL LOANS.—In calculating the period of time during which a borrower of a loan that is reissued under section 460A has made monthly payments for purposes of subsection (b)(7), the Secretary shall deem the period to include all monthly payments made for the original loan, and all monthly payments made for the reissued loan, that otherwise meet the requirements of this section.

''(2) FEDERAL DIRECT REFINANCED PRIVATE LOANS.—In calculating the period of time during which a borrower of a Federal Direct Refinanced Private Loan under section 460B has made monthly payments for purposes of subsection (b)(7), the Secretary shall include only payments—

"(A) that are made after the date of the issuance of the Federal Direct Refinanced Private Loan; and

"(B) that otherwise meet the requirements of this section.".

SEC. 3. FAIR SHARE TAX ON HIGH-INCOME TAXPAYERS.

(a) IN GENERAL.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new part:

"PART VII—FAIR SHARE TAX ON HIGH-INCOME TAXPAYERS

"Sec. 59A. Fair share tax.

"SEC. 59A. FAIR SHARE TAX.

"(a) GENERAL RULE.—

"(1) PHASE-IN OF TAX.—In the case of any high-income taxpayer, there is hereby imposed for a taxable year (in addition to any other tax imposed by this subtitle) a tax equal to the product of—

"(A) the amount determined under paragraph (2), and

"(B) a fraction (not to exceed 1)—

"(i) the numerator of which is the excess of—

"(I) the taxpayer's adjusted gross income, over

"(II) the dollar amount in effect under subsection (c)(1), and

"(ii) the denominator of which is the dollar amount in effect under subsection (c)(1).

"(2) AMOUNT OF TAX.—The amount of tax determined under this paragraph is an amount equal to the excess (if any) of—

"(A) the tentative fair share tax for the taxable year, over

"(B) the excess of—

"(i) the sum of—

"(I) the regular tax liability (as defined in section 26(b)) for the taxable year,

"(II) the tax imposed by section 55 for the taxable year, plus

"(III) the payroll tax for the taxable year, over

"(ii) the credits allowable under part IV of subchapter A (other than sections 27(a), 31, and 34).

"(b) TENTATIVE FAIR SHARE TAX.—For purposes of this section—

"(1) IN GENERAL.—The tentative fair share tax for the taxable year is 30 percent of the excess of—

"(A) the adjusted gross income of the taxpayer, over

"(B) the modified charitable contribution deduction for the taxable year.

"(2) MODIFIED CHARITABLE CONTRIBUTION DEDUCTION.—For purposes of paragraph (1)—

"(A) IN GENERAL.—The modified charitable contribution deduction for any taxable year is an amount equal to the amount which bears the same ratio to the deduction allowable under section 170 (section 642(c) in the case of a trust or estate) for such taxable year as—

"(i) the amount of itemized deductions allowable under the regular tax (as defined in section 55) for such taxable year, determined after the application of section 68, bears to

"(ii) such amount, determined before the application of section 68.

"(B) TAXPAYER MUST ITEMIZE.—In the case of any individual who does not elect to itemize deductions for the taxable year, the

modified charitable contribution deduction shall be zero.

"(c) HIGH-INCOME TAXPAYER.—For purposes of this section—

"(1) IN GENERAL.—The term 'high-income taxpayer' means, with respect to any taxable year, any taxpayer (other than a corporation) with an adjusted gross income for such taxable year in excess of $1,000,000 (50 percent of such amount in the case of a married individual who files a separate return).

"(2) INFLATION ADJUSTMENT.—

"(A) IN GENERAL.—In the case of a taxable year beginning after 2016, the $1,000,000 amount under paragraph (1) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2015' for 'calendar year 1992' in subparagraph (B) thereof.

"(B) ROUNDING.—If any amount as adjusted under subparagraph (A) is not a multiple

of $10,000, such amount shall be rounded to the next lowest multiple of $10,000.

"(d) PAYROLL TAX.—For purposes of this section, the payroll tax for any taxable year is an amount equal to the excess of—

"(1) the taxes imposed on the taxpayer under sections 1401, 1411, 3101, 3201, and 3211(a) (to the extent such taxes are attributable to the rate of tax in effect under section 3101) with respect to such taxable year or wages or compensation received during the taxable year, over

"(2) the deduction allowable under section 164(f) for such taxable year.

"(e) SPECIAL RULE FOR ESTATES AND TRUSTS.—For purposes of this section, in the case of an estate or trust, adjusted gross income shall be computed in the manner described in section 67(e).

"(f) NOT TREATED AS TAX IMPOSED BY THIS CHAPTER FOR CERTAIN PURPOSES.—The tax imposed under this section shall not be treated as tax imposed by this chapter for purposes of determining the amount of any credit under this chapter (other than the credit allowed under section 27(a)) or for purposes of section 55.".

(b) CONFORMING AMENDMENT.—Section 26(b)(2) of the Internal Revenue Code of 1986 is amended by insert-

ing after subparagraph (A) the following new subparagraph:

"(B) section 59A (relating to fair share tax),".

(c) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"PART VII—FAIR SHARE TAX ON HIGH-INCOME TAXPAYERS".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2015.

SEC. 4. DEFICIT NEUTRAL IMPLEMENTATION OF STUDENT LOAN REFINANCING PROGRAMS.

(a) AMOUNT OF REVENUE.—Not later than 1 year after the date of enactment of the Fairness in Student Loan Lending Act, the Secretary of Education shall estimate the amount that is equal to the amount of the net increase in revenue received in the Treasury during the 10-year period beginning on the date of enactment of the Fairness in Student Loan Lending Act attributable to the amendments made by section 3 of the Fairness in Student Loan Lending Act.

(b) DEFICIT-NEUTRAL TERMINATION OF THE REFINANCING PROGRAM.—The Secretary of Education shall terminate the refinancing programs carried out under sec-

tions 460A and 460B of the Higher Education Act of 1965 on the date that the net cost of carrying out such refinancing programs is equal to the amount of additional revenue estimated under subsection (a).

(c) METHODOLOGY.—When estimating cost and revenue under this section, the Secretary shall utilize the accounting methods and assumptions that are used by the Congressional Budget Office, as of the date of enactment of this Act, to make such estimations.

SEC. 5. UNDUE HARDSHIP EXCEPTIONS TO DISCHARGE.

Section 523(a)(8) of title 11, United States Code, is amended by striking ''dependents, for'' and all that follows through the end of subparagraph (B) and inserting ''dependents, for an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit or made under any program funded in whole or in part by a governmental unit or an obligation to repay funds received from a governmental unit as an educational benefit, scholarship, or stipend;''.

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