

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

A BILL

To amend the Higher Education Act of 1965 to provide for the refinancing of certain Federal student loans, 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 “Fairness in Student
5 Loan Lending Act”.

1 **SEC. 2. REFINANCING PROGRAMS.**

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

5 (1) by striking “and (2)” and inserting “(2)”;

6 and

7 (2) by inserting “; and (3) to make loans under
8 section 460A and section 460B” after “section
9 459A”.

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

13 **“SEC. 460A. REFINANCING FFEL AND FEDERAL DIRECT**
14 **LOANS.**

15 “(a) IN GENERAL.—Beginning not later than 180
16 days after the date of enactment of the Fairness in Stu-
17 dent Loan Lending Act, the Secretary shall establish a
18 program under which the Secretary, upon the receipt of
19 an application from a qualified borrower, reissues the bor-
20 rower’s original loan under this part or part B as a loan
21 under this part, in accordance with the provisions of this
22 section, in order to permit the borrower to obtain the in-
23 terest rate provided under subsection (c)).

24 “(b) REISSUING LOANS.—

25 “(1) FEDERAL DIRECT LOANS.—Upon applica-
26 tion of a qualified borrower, the Secretary shall re-

1 issue a Federal Direct Stafford Loan, a Federal Di-
2 rect Unsubsidized Stafford Loan, a Federal Direct
3 PLUS Loan, or a Federal Direct Consolidation
4 Loan of the qualified borrower, for which the first
5 disbursement was made, or the application for the
6 reissuance of a loan under this section was received
7 before July 1, 2015, in an amount equal to the sum
8 of—

9 “(A) the unpaid principal, accrued unpaid
10 interest, and late charges of the original loan;
11 and

12 “(B) the administrative fee under sub-
13 section (d)(3).

14 “(2) DISCHARGING AND REISSUING FFEL PRO-
15 GRAM LOANS AS REFINANCED FEDERAL DIRECT
16 LOANS.—Upon application of a qualified borrower
17 for any loan that was made, insured, or guaranteed
18 under part B and for which the first disbursement
19 was made before July 1, 2010, the Secretary shall
20 reissue such loan as a loan under this part, in an
21 amount equal to the sum of the unpaid principal, ac-
22 crued unpaid interest, and late charges of the origi-
23 nal loan and the administrative fee under subsection
24 (d)(3), to the borrower in accordance with the fol-
25 lowing:

1 “(A) The Secretary shall pay the proceeds
2 of such reissued loan to the eligible lender of
3 the loan made, insured, or guaranteed under
4 part B, in order to discharge the borrower from
5 any remaining obligation to the lender with re-
6 spect to the original loan.

7 “(B) The Secretary shall reissue—

8 “(i) a loan originally made, insured,
9 or guaranteed under section 428 as a Fed-
10 eral Direct Stafford Loan;

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

14 “(iii) a loan originally made, insured,
15 or guaranteed under section 428H as a
16 Federal Direct Unsubsidized Stafford
17 Loan; and

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

21 “(C) The interest rate for each loan re-
22 issued under this paragraph shall be the rate
23 provided under subsection (c)).

24 “(c) INTEREST RATE.—

1 “(1) IN GENERAL.—The interest rate for the
2 reissued Federal Direct Stafford Loans, Federal Di-
3 rect Unsubsidized Stafford Loans, Federal Direct
4 PLUS Loans, and Federal Direct Consolidation
5 Loans, shall be a rate equal to the high yield of the
6 10-year Treasury note auctioned at the final auction
7 held prior to the first day of the month in which the
8 application for reissuance under this section is re-
9 ceived, plus 1.0 percent.

10 “(2) FIXED RATE.—The applicable rate of in-
11 terest determined under paragraph (1) for a re-
12 issued loan under this section shall be fixed for the
13 period of the loan.

14 “(d) TERMS AND CONDITIONS OF LOANS.—

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

19 “(2) NO AUTOMATIC EXTENSION OF REPAY-
20 MENT PERIOD.—Reissuing a loan under this section
21 shall not result in the extension of the duration of
22 the repayment period of the loan, and the borrower
23 shall retain the same repayment term that was in ef-
24 fect on the original loan. Nothing in this paragraph
25 shall be construed to prevent a borrower from elect-

1 ing a different repayment plan at any time in ac-
2 cordance with section 455(d)(3).

3 “(3) ADMINISTRATIVE FEE.—The Secretary
4 shall charge the borrower of a loan reissued under
5 this section an administrative fee of not more than
6 0.5 percent of the sum of the unpaid principal, ac-
7 crued unpaid interest, and late charges, of the origi-
8 nal loan.

9 “(e) DEFINITION OF QUALIFIED BORROWER.—

10 “(1) IN GENERAL.—The term ‘qualified bor-
11 rower’ means a borrower—

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

16 “(B) who meets the eligibility requirements
17 based on income or debt-to-income ratio estab-
18 lished by the Secretary.

19 “(2) INCOME REQUIREMENTS.—Not later than
20 180 days after the date of enactment of the Fairness
21 in Student Loan Lending Act, the Secretary shall
22 establish eligibility requirements based on income or
23 debt-to-income ratio that take into consideration
24 providing access to refinancing under this section for
25 borrowers with the greatest financial need.

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

5 **“SEC. 460B. FEDERAL DIRECT REFINANCED PRIVATE LOAN**
6 **PROGRAM.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) ELIGIBLE PRIVATE EDUCATION LOAN.—
9 The term ‘eligible private education loan’ means a
10 private education loan, as defined in section 140 of
11 the Truth in Lending Act (15 U.S.C. 1650), that—

12 “(A) was disbursed to the borrower before
13 July 1, 2015; and

14 “(B) was for the borrower’s own postsec-
15 ondary educational expenses for an eligible pro-
16 gram at an institution of higher education par-
17 ticipating in the loan program under this part
18 or part B, as of the date that the loan was dis-
19 bursed.

20 “(2) FEDERAL DIRECT REFINANCED PRIVATE
21 LOAN.—The term ‘Federal Direct Refinanced Pri-
22 vate Loan’ means a loan issued under subsection
23 (b)(1).

24 “(3) PRIVATE EDUCATIONAL LENDER.—The
25 term ‘private educational lender’ has the meaning

1 given the term in section 140 of the Truth in Lend-
2 ing Act (15 U.S.C. 1650).

3 “(4) QUALIFIED BORROWER.—The term ‘quali-
4 fied borrower’ means an individual who—

5 “(A) has an eligible private education loan;

6 “(B) has been current on payments on the
7 eligible private education loan for the 6 months
8 prior to the date of the qualified borrower’s ap-
9 plication for refinancing under this section, and
10 is in good standing on the loan at the time of
11 such application;

12 “(C) is not in default on the eligible pri-
13 vate education loan or on any loan made, in-
14 sured, or guaranteed under this part or part B
15 or E; and

16 “(D) meets the eligibility requirements
17 based on income or debt-to-income ratio estab-
18 lished by the Secretary under subsection (b)(2).

19 “(b) PROGRAM AUTHORIZED.—

20 “(1) IN GENERAL.—The Secretary, in consulta-
21 tion with the Secretary of the Treasury, shall carry
22 out a program under which the Secretary, upon ap-
23 plication by a qualified borrower, shall issue such
24 borrower a loan under this part in accordance with
25 the following:

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

6 “(B) The Secretary shall pay the proceeds
7 of the loan issued under this program to the
8 private educational lender of the private edu-
9 cation loan, in order to discharge the qualified
10 borrower from any remaining obligation to the
11 lender with respect to the original loan.

12 “(C) The Secretary shall require that the
13 qualified borrower undergo loan counseling that
14 provides all of the information and counseling
15 required under clauses (i) through (viii) of sec-
16 tion 485(b)(1)(A) before the loan is reissued in
17 accordance with this section, and before the
18 proceeds of such loan are paid to the private
19 educational lender.

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

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

8 “(c) INTEREST RATE.—

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

16 “(2) FIXED RATE.—The applicable rate of in-
17 terest determined under this subsection for a Fed-
18 eral Direct Refinanced Private Loan shall be fixed
19 for the period of the loan.

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

1 borrower's annual or aggregate loan limits under section 428
2 or 428H.

3 “(e) NO ELIGIBILITY FOR SERVICE-RELATED RE-
4 PAYMENT.—Notwithstanding sections 428K(a)(2)(A),
5 428L(b)(2), 455(m)(3)(A), and 460(b), a Federal Direct
6 Refinanced Private Loan, or any Federal Direct Consoli-
7 dation Loan to the extent such loan was used to repay
8 a Federal Direct Refinanced Private Loan, shall not be
9 eligible for any loan repayment or loan forgiveness pro-
10 gram under section 428K, 428L, or 460 or for the repay-
11 ment plan for public service employees under section
12 455(m).

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

19 “(g) EXPIRATION OF AUTHORITY.—The Secretary's
20 authority to reissue loans under this section shall expire
21 on the date that is determined in accordance with section
22 4 of the Fairness in Student Loan Lending Act.”.

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

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

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

5 “(3) SPECIAL RULES FOR SECTION 460A
6 LOANS.—

7 “(A) REFINANCED FEDERAL DIRECT
8 LOANS.—Notwithstanding paragraph (1), in de-
9 termining the number of monthly payments
10 that meet the requirements of such paragraph
11 for an eligible Federal Direct Loan reissued
12 under section 460A that was originally a loan
13 under this part, the Secretary shall include all
14 monthly payments made on the original loan
15 that meet the requirements of such paragraph.

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

23 (3) in paragraph (4)(A) (as redesignated by
24 paragraph (1) of this subsection), by inserting “(in-
25 cluding any Federal Direct Stafford Loan, Federal

1 Direct PLUS Loan, Federal Direct Unsubsidized
2 Stafford Loan, or Federal Direct Consolidation
3 Loan reissued under section 460A)” before the pe-
4 riod at the end.

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

8 “(f) SPECIAL RULE FOR REFINANCED LOANS.—

9 “(1) REFINANCED FEDERAL DIRECT AND FFEL
10 LOANS.—In calculating the period of time during
11 which a borrower of a loan that is reissued under
12 section 460A has made monthly payments for pur-
13 poses of subsection (b)(7), the Secretary shall deem
14 the period to include all monthly payments made for
15 the original loan, and all monthly payments made
16 for the reissued loan, that otherwise meet the re-
17 quirements of this section.

18 “(2) FEDERAL DIRECT REFINANCED PRIVATE
19 LOANS.—In calculating the period of time during
20 which a borrower of a Federal Direct Refinanced
21 Private Loan under section 460B has made monthly
22 payments for purposes of subsection (b)(7), the Sec-
23 retary shall include only payments—

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

3 “(ii) the denominator of which is the
4 dollar amount in effect under subsection
5 (c)(1).

6 “(2) AMOUNT OF TAX.—The amount of tax de-
7 termined under this paragraph is an amount equal
8 to the excess (if any) of—

9 “(A) the tentative fair share tax for the
10 taxable year, over

11 “(B) the excess of—

12 “(i) the sum of—

13 “(I) the regular tax liability (as
14 defined in section 26(b)) for the tax-
15 able year,

16 “(II) the tax imposed by section
17 55 for the taxable year, plus

18 “(III) the payroll tax for the tax-
19 able year, over

20 “(ii) the credits allowable under part
21 IV of subchapter A (other than sections
22 27(a), 31, and 34).

23 “(b) TENTATIVE FAIR SHARE TAX.—For purposes
24 of this section—

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

3 “(A) the adjusted gross income of the tax-
4 payer, over

5 “(B) the modified charitable contribution
6 deduction for the taxable year.

7 “(2) MODIFIED CHARITABLE CONTRIBUTION
8 DEDUCTION.—For purposes of paragraph (1)—

9 “(A) IN GENERAL.—The modified chari-
10 table contribution deduction for any taxable
11 year is an amount equal to the amount which
12 bears the same ratio to the deduction allowable
13 under section 170 (section 642(c) in the case of
14 a trust or estate) for such taxable year as—

15 “(i) the amount of itemized deduc-
16 tions allowable under the regular tax (as
17 defined in section 55) for such taxable
18 year, determined after the application of
19 section 68, bears to

20 “(ii) such amount, determined before
21 the application of section 68.

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

1 modified charitable contribution deduction shall
2 be zero.

3 “(c) HIGH-INCOME TAXPAYER.—For purposes of this
4 section—

5 “(1) IN GENERAL.—The term ‘high-income tax-
6 payer’ means, with respect to any taxable year, any
7 taxpayer (other than a corporation) with an adjusted
8 gross income for such taxable year in excess of
9 \$1,000,000 (50 percent of such amount in the case
10 of a married individual who files a separate return).

11 “(2) INFLATION ADJUSTMENT.—

12 “(A) IN GENERAL.—In the case of a tax-
13 able year beginning after 2016, the \$1,000,000
14 amount under paragraph (1) shall be increased
15 by an amount equal to—

16 “(i) such dollar amount, multiplied by

17 “(ii) the cost-of-living adjustment de-
18 termined under section 1(f)(3) for the cal-
19 endar year in which the taxable year be-
20 gins, determined by substituting ‘calendar
21 year 2015’ for ‘calendar year 1992’ in sub-
22 paragraph (B) thereof.

23 “(B) ROUNDING.—If any amount as ad-
24 justed under subparagraph (A) is not a multiple

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

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

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

12 “(2) the deduction allowable under section
13 164(f) for such taxable year.

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

18 “(f) NOT TREATED AS TAX IMPOSED BY THIS CHAP-
19 TER FOR CERTAIN PURPOSES.—The tax imposed under
20 this section shall not be treated as tax imposed by this
21 chapter for purposes of determining the amount of any
22 credit under this chapter (other than the credit allowed
23 under section 27(a)) or for purposes of section 55.”.

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

1 ing after subparagraph (A) the following new subpara-
2 graph:

3 “(B) section 59A (relating to fair share
4 tax),”.

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

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

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

12 **SEC. 4. DEFICIT NEUTRAL IMPLEMENTATION OF STUDENT**
13 **LOAN REFINANCING PROGRAMS.**

14 (a) AMOUNT OF REVENUE.—Not later than 1 year
15 after the date of enactment of the Fairness in Student
16 Loan Lending Act, the Secretary of Education shall esti-
17 mate the amount that is equal to the amount of the net
18 increase in revenue received in the Treasury during the
19 10-year period beginning on the date of enactment of the
20 Fairness in Student Loan Lending Act attributable to the
21 amendments made by section 3 of the Fairness in Student
22 Loan Lending Act.

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

1 tions 460A and 460B of the Higher Education Act of
2 1965 on the date that the net cost of carrying out such
3 refinancing programs is equal to the amount of additional
4 revenue estimated under subsection (a).

5 (c) **METHODOLOGY.**—When estimating cost and rev-
6 enue under this section, the Secretary shall utilize the ac-
7 counting methods and assumptions that are used by the
8 Congressional Budget Office, as of the date of enactment
9 of this Act, to make such estimations.

10 **SEC. 5. UNDUE HARDSHIP EXCEPTIONS TO DISCHARGE.**

11 Section 523(a)(8) of title 11, United States Code, is
12 amended by striking “dependents, for” and all that follows
13 through the end of subparagraph (B) and inserting “de-
14 pendants, for an educational benefit overpayment or loan
15 made, insured, or guaranteed by a governmental unit or
16 made under any program funded in whole or in part by
17 a governmental unit or an obligation to repay funds re-
18 ceived from a governmental unit as an educational benefit,
19 scholarship, or stipend;”.

○