

115TH CONGRESS
2D SESSION

S. 3611

To amend the Internal Revenue Code of 1986 and the Higher Education Act of 1965 to facilitate the disclosure of tax return information to carry out the Higher Education Act of 1965, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 13, 2018

Mr. ALEXANDER (for himself, Mr. WHITEHOUSE, Mrs. MURRAY, and Mr. GARDNER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 and the Higher Education Act of 1965 to facilitate the disclosure of tax return information to carry out the Higher Education Act of 1965, 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 “Faster Access to Fed-
5 eral Student Aid Act of 2018”.

1 **SEC. 2. SECURE DISCLOSURE OF TAX-RETURN INFORMA-**
 2 **TION TO CARRY OUT THE HIGHER EDU-**
 3 **CATION ACT OF 1965.**

4 (a) AMENDMENTS TO THE INTERNAL REVENUE
 5 CODE OF 1986.—

6 (1) IN GENERAL.—Paragraph (13) of section
 7 6103(l) of the Internal Revenue Code of 1986 is
 8 amended to read as follows:

9 “(13) DISCLOSURE OF RETURN INFORMATION
 10 TO CARRY OUT THE HIGHER EDUCATION ACT OF
 11 1965.—

12 “(A) INCOME-CONTINGENT OR INCOME-
 13 BASED REPAYMENT AND TOTAL AND PERMA-
 14 NENT DISABILITY DISCHARGE.—The Secretary
 15 shall, upon written request from the Secretary
 16 of Education, disclose to officers, employees,
 17 and contractors of the Department of Edu-
 18 cation, as specifically authorized and designated
 19 by the Secretary of Education, only for the pur-
 20 pose of (and to the extent necessary in) estab-
 21 lishing, renewing, administering, and con-
 22 ducting analyses and forecasts for estimating
 23 costs related to income-contingent or income-
 24 based repayment programs, and the discharge
 25 of loans based on a total and permanent dis-
 26 ability (within the meaning of section 437(a) of

1 the Higher Education Act of 1965), under title
2 IV of the Higher Education Act of 1965, the
3 following return information (as defined in sub-
4 section (b)(2)) with respect to taxpayers identi-
5 fied by the Secretary of Education as partici-
6 pating in the loan programs under title IV of
7 such Act, for taxable years specified by such
8 Secretary:

9 “(i) Taxpayer identity information
10 with respect to such taxpayer.

11 “(ii) The filing status of such tax-
12 payer.

13 “(iii) Type of tax return from which
14 the return information is provided.

15 “(iv) The adjusted gross income of
16 such taxpayer.

17 “(v) Total number of exemptions
18 claimed, or total number of individuals and
19 dependents claimed, as applicable, on the
20 return.

21 “(vi) Number of children with respect
22 to which tax credits under section 24 are
23 claimed on the return.

24 “(vii) Other information determined
25 to be necessary by agreement between the

1 Secretary and the Secretary of Education
2 to administer the Federal financial aid pro-
3 grams as required by the Higher Edu-
4 cation Act of 1965.

5 “(B) FEDERAL STUDENT FINANCIAL
6 AID.—The Secretary shall, upon written request
7 from the Secretary of Education, disclose to of-
8 ficers, employees, and contractors of the De-
9 partment of Education, as specifically author-
10 ized and designated by the Secretary of Edu-
11 cation, only for the purpose of (and to the ex-
12 tent necessary in) determining eligibility for,
13 and amount of, Federal student financial aid
14 under programs authorized by title IV of the
15 Higher Education Act of 1965 and conducting
16 analyses and forecasts for estimating costs re-
17 lated to such programs, the following return in-
18 formation (as defined in subsection (b)(2)) with
19 respect to taxpayers identified by the Secretary
20 of Education as applicants for Federal student
21 financial aid under title IV of such Act, for tax-
22 able years specified by such Secretary:

23 “(i) Taxpayer identity information
24 with respect to such taxpayer.

1 “(ii) The filing status of such tax-
2 payer.

3 “(iii) Type of tax return from which
4 the return information is provided.

5 “(iv) The adjusted gross income of
6 such taxpayer.

7 “(v) The amount of any net earnings
8 from self-employment (as defined in sec-
9 tion 1402), wages (as defined in section
10 3121(a) or 3401(a)), and taxable income
11 from a farming business (as defined in sec-
12 tion 236A(e)(4)) for the period reported on
13 the return.

14 “(vi) The total income tax of such
15 taxpayer.

16 “(vii) Total number of exemptions
17 claimed, or total number of individuals and
18 dependents claimed, as applicable, on the
19 return.

20 “(viii) Number of children with re-
21 spect to which tax credits under section 24
22 are claimed on the return.

23 “(ix) Amount of any credit claimed
24 under section 25A for the taxable year.

1 “(x) Amount of individual retirement
2 account distributions not included in ad-
3 justed gross income for the taxable year.

4 “(xi) Amount of individual retirement
5 account contributions and payments to
6 self-employed SEP, Keogh, and other
7 qualified plans which were deducted from
8 income for the taxable year.

9 “(xii) The amount of tax-exempt in-
10 terest.

11 “(xiii) Amounts from retirement pen-
12 sions and annuities not included in ad-
13 justed gross income for the taxable year.

14 “(xiv) If applicable, the fact that
15 there is no return filed for such taxpayer
16 for the applicable year.

17 “(xv) Other information determined to
18 be necessary by agreement between the
19 Secretary and the Secretary of Education
20 to administer the Federal financial aid pro-
21 grams as required by the Higher Edu-
22 cation Act of 1965.

23 “(C) RESTRICTION ON USE OF DISCLOSED
24 INFORMATION.—

“(i) IN GENERAL.—Return information disclosed under subparagraphs (A) and (B) may be used by officers, employees, and contractors of the Department of Education, as specifically authorized and designated by the Secretary of Education, only for the purposes and to the extent necessary described in such subparagraphs and for mitigating risks (as defined in clause (ii)) relating to the programs described in such subparagraphs.

“(ii) MITIGATING RISKS.—For purposes of this subparagraph, the term ‘mitigating risks’ means, with respect to the programs described in subparagraphs (A) and (B)—

“(I) analyzing or estimating costs associated with potential changes to the need-analysis formula,

“(II) oversight activities by the Office of Inspector General of the Department of Education as authorized by the Inspector General Act of 1978, as amended,

1 “(III) developing or admin-
 2 istering statistical models that inform
 3 support to populations of Federal stu-
 4 dent loan borrowers who are at risk of
 5 default or delinquency,

6 “(IV) reducing the net cost of
 7 improper payments to Federal finan-
 8 cial aid recipients, and

9 “(V) producing aggregate statis-
 10 tics for reporting, research, or con-
 11 sumer information on the performance
 12 of programs or institutions of higher
 13 education participating in the pro-
 14 grams under title IV of the Higher
 15 Education Act of 1965.

16 Such term does not include the conduct of
 17 criminal investigations or prosecutions.

18 “(iii) REDISCLOSURE TO INSTITU-
 19 TIONS OF HIGHER EDUCATION, STATE
 20 HIGHER EDUCATION AGENCIES, AND DES-
 21 IGNATED SCHOLARSHIP ORGANIZATIONS.—
 22 The Secretary of Education, and officers,
 23 employees, and contractors of the Depart-
 24 ment of Education, may disclose return in-
 25 formation received under subparagraph

1 (B), solely for the use in the application,
2 award, and administration of Federal stu-
3 dent financial aid, State aid, or aid award-
4 ed by eligible institutions or such entities
5 as the Secretary of Education may des-
6 ignate, to the following persons:

7 “(I) An institution of higher edu-
8 cation with which the Secretary of
9 Education has an agreement under
10 subpart 1 of part A, or part D or E,
11 of title IV of the Higher Education
12 Act of 1965.

13 “(II) A State higher education
14 agency.

15 “(III) A scholarship organization
16 which is designated by the Secretary
17 of Education as of the date of the en-
18 actment of the Faster Access to Fed-
19 eral Student Aid Act of 2018 as an
20 organization eligible to receive the in-
21 formation provided under this clause.

22 The preceding sentence shall only apply to
23 the extent that the taxpayer with respect
24 to whom the return information relates
25 provides consent for such disclosure to the

1 Secretary of Education as part of the ap-
 2 plication for Federal student financial aid
 3 under title IV of the Higher Education Act
 4 of 1965.

5 “(D) REQUIRED NOTIFICATION PERI-
 6 ODS.—

7 “(i) NOTIFICATION TO CONGRESS.—
 8 The Secretary and the Secretary of Edu-
 9 cation shall issue joint notifications to the
 10 Committees on Finance and Health, Edu-
 11 cation, Labor, and Pensions of the Senate
 12 and the Committees on Ways and Means
 13 and Education and the Workforce of the
 14 House of Representatives not less than
 15 120 days prior to the first disclosure of
 16 any type of return information under sub-
 17 paragraph (A)(vii) or (B)(xv) with respect
 18 to which such a notification has not been
 19 previously made.

20 “(ii) PUBLIC NOTICE AND COM-
 21 MENT.—There shall be a public notice and
 22 comment period beginning not less than 60
 23 days prior to the first disclosure of any
 24 type of return information under subpara-
 25 graph (A)(vii) or (B)(xv) with respect to

1 which such a notification has not been pre-
 2 viously made, subsequent to the period al-
 3 lotted for Congressional comment under
 4 clause (i).”.

5 (2) CONFIDENTIALITY OF RETURN INFORMA-
 6 TION.—Section 6103(a)(3) of such Code is amended
 7 by inserting “, (13)(A), (13)(B)” after “(12)”.

8 (3) CONFORMING AMENDMENTS.—Section
 9 6103(p)(4) of such Code is amended—

10 (A) by inserting “(A), (13)(B)” after
 11 “(13)” each place it occurs, and

12 (B) by inserting “, (13)(A), (13)(B)” after
 13 “(l)(10)” each place it occurs.

14 (b) EFFECTIVE DATE.—The amendments made by
 15 this section shall apply to disclosures made under section
 16 6103(l)(13) of the Internal Revenue Code of 1986 (as
 17 amended by this section) after the date of the enactment
 18 of this Act.

19 **SEC. 3. NOTIFICATION OF REQUEST FOR TAX RETURN IN-**
 20 **FORMATION.**

21 (a) IN GENERAL.—Part G of title IV of the Higher
 22 Education Act of 1965 (20 U.S.C. 1088 et seq.) is amend-
 23 ed by adding at the end the following:

1 **“SEC. 494. NOTIFICATION OF REQUEST FOR TAX RETURN**
2 **INFORMATION.**

3 “The Secretary shall advise students and borrowers
4 who submit an application for Federal student financial
5 aid under this title or for the discharge of a loan based
6 on permanent and total disability, as described in section
7 437(a), or who request an income-contingent or income-
8 based repayment plan on their loan (as well as parents
9 and spouses who sign such an application or request or
10 a Master Promissory Note on behalf of those students and
11 borrowers) that the Secretary has the authority to request
12 that the Internal Revenue Service disclose their tax return
13 information (as well as that of parents and spouses who
14 sign such an application or request or a Master Promis-
15 sory Note on behalf of those students and borrowers) to
16 officers, employees, and contractors of the Department of
17 Education as authorized under section 6103(1)(13) of the
18 Internal Revenue Code of 1986, to the extent necessary
19 for the Secretary to carry out this title.”.

20 (b) CONFORMING AMENDMENT.—Section 484(q) of
21 the Higher Education Act of 1965 (20 U.S.C. 1091(q))
22 is amended to read as follows:

23 “(q) reserved”.

24 **SEC. 4. REPORTS ON IMPLEMENTATION.**

25 (a) IN GENERAL.—Not later than each specified
26 date, the Secretary of Education and the Secretary of the

1 Treasury shall issue joint reports to the Committees on
2 Health, Education, Labor, and Pensions and Finance of
3 the Senate and the Committees on Education and the
4 Workforce and Ways and Means of the House of Rep-
5 resentatives regarding the amendments made by this Act.

6 Each such report shall include, as applicable—

7 (1) an update on the status of implementation
8 of the amendments made by this Act,

9 (2) an evaluation of the processing of applica-
10 tions for Federal student financial aid, and applica-
11 tions for income-based repayment and income con-
12 tingent repayment, under title IV of the Higher
13 Education Act of 1965 (20 U.S.C. 1070 et seq.), in
14 accordance with the amendments made by this Act,
15 and

16 (3) implementation issues and suggestions for
17 potential improvements.

18 (b) SPECIFIED DATE.—For purposes of subsection
19 (a), the term “specified date” means—

20 (1) the date that is 90 days after the date of
21 the enactment of this Act,

22 (2) the date that is 120 days after the first day
23 that the disclosure process established under section
24 6103(l)(13) of the Internal Revenue Code of 1986,
25 as amended by section 2(a) of this Act, is oper-

1 ational and accessible to officers, employees, and
2 contractors of the Department of Education (as spe-
3 cifically authorized and designated by the Secretary
4 of Education), and

5 (3) the date that is 1 year after the report date
6 described in paragraph (2).

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