

116TH CONGRESS
1ST SESSION

H. R. 5368

To provide for secure disclosure of tax-return information to carry out the Higher Education Act of 1965, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 9, 2019

Ms. DELBENE introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Ways and Means, 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 provide for secure 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 2019”.

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

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

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

10 “(A) APPLICATIONS AND RECERTIFI-
11 CATIONS FOR INCOME-CONTINGENT OR INCOME-
12 BASED REPAYMENT.—The Secretary shall, upon
13 written request from the Secretary of Edu-
14 cation, disclose to any authorized person, only
15 for the purpose of (and to the extent necessary
16 in) determining eligibility for, or repayment ob-
17 ligations under, income-contingent or income-
18 based repayment plans under title IV of the
19 Higher Education Act of 1965 with respect to
20 loans under part D of such title, the following
21 return information from returns (for any tax-
22 able year specified by the Secretary of Edu-
23 cation as relevant to such purpose) of an indi-
24 vidual certified by the Secretary of Education
25 as having provided approval under section
26 494(a)(2) of such Act (as in effect on the date

1 of enactment of this paragraph) for such disclo-
2 sure:

3 “(i) Taxpayer identity information.

4 “(ii) Filing status.

5 “(iii) Adjusted gross income.

6 “(iv) Total number of exemptions
7 claimed, if applicable.

8 “(v) Number of dependents taken into
9 account in determining the credit allowed
10 under section 24.

11 “(vi) If applicable, the fact that there
12 was no return filed.

13 “(B) DISCHARGE OF LOAN BASED ON
14 TOTAL AND PERMANENT DISABILITY.—The
15 Secretary shall, upon written request from the
16 Secretary of Education, disclose to any author-
17 ized person, only for the purpose of (and to the
18 extent necessary in) monitoring and reinstating
19 loans under title IV of the Higher Education
20 Act of 1965 that were discharged based on a
21 total and permanent disability (within the
22 meaning of section 437(a) of such Act), the fol-
23 lowing return information from returns (for any
24 taxable year specified by the Secretary of Edu-
25 cation as relevant to such purpose) of an indi-

1 vidual certified by the Secretary of Education
2 as having provided approval under section
3 494(a)(3) of such Act (as in effect on the date
4 of enactment of this paragraph) for such disclo-
5 sure:

6 “(i) The return information described
7 in clauses (i), (ii), and (vi) of subpara-
8 graph (A).

9 “(ii) The return information described
10 in subparagraph (C)(ii).

11 “(C) FEDERAL STUDENT FINANCIAL
12 AID.—The Secretary shall, upon written request
13 from the Secretary of Education, disclose to
14 any authorized person, only for the purpose of
15 (and to the extent necessary in) determining eli-
16 gibility for, and amount of, Federal student fi-
17 nancial aid under a program authorized under
18 subpart 1 of part A, part C, or part D of title
19 IV of the Higher Education Act of 1965 the
20 following return information from returns (for
21 the taxable year used for purposes of section
22 480(a) of such Act) of an individual certified by
23 the Secretary of Education as having provided
24 approval under section 494(a)(1) of such Act

1 (as in effect on the date of enactment of this
2 paragraph) for such disclosure:

3 “(i) Return information described in
4 clauses (i) through (vi) of subparagraph
5 (A).

6 “(ii) The amount of any net earnings
7 from self-employment (as defined in sec-
8 tion 1402(a)), wages (as defined in section
9 3121(a) or 3401(a)), and taxable income
10 from a farming business (as defined in sec-
11 tion 236A(e)(4)).

12 “(iii) Amount of total income tax.

13 “(iv) Amount of any credit allowed
14 under section 25A.

15 “(v) Amount of individual retirement
16 account distributions not included in ad-
17 justed gross income.

18 “(vi) Amount of individual retirement
19 account contributions and payments to
20 self-employed SEP, Keogh, and other
21 qualified plans which were deducted from
22 income.

23 “(vii) Amount of tax-exempt interest
24 received.

1 “(viii) Amounts from retirement pen-
2 sions and annuities not included in ad-
3 justed gross income.

4 “(ix) If applicable, the fact that any
5 of the following schedules (or equivalent
6 successor schedules) were filed with the re-
7 turn:

8 “(I) Schedule A.

9 “(II) Schedule B.

10 “(III) Schedule D.

11 “(IV) Schedule E.

12 “(V) Schedule F.

13 “(VI) Schedule H.

14 “(x) If applicable, the amount re-
15 ported on Schedule C (or an equivalent
16 successor schedule) as net profit or loss.

17 “(D) ADDITIONAL USES OF DISCLOSED IN-
18 FORMATION.—

19 “(i) IN GENERAL.—In addition to the
20 purposes for which information is disclosed
21 under subparagraphs (A), (B), and (C), re-
22 turn information so disclosed may be used
23 by an authorized person, with respect to
24 income-contingent or income-based repay-
25 ment plans, awards of Federal student fi-

1 nancial aid under a program authorized
2 under subpart 1 of part A, part C, or part
3 D of title IV of the Higher Education Act
4 of 1965, and discharges of loans based on
5 a total and permanent disability (within
6 the meaning of section 437(a) of such
7 Act), for purposes of—

8 “(I) reducing the net cost of im-
9 proper payments under such plans, re-
10 lating to such disbursements, or relat-
11 ing to such discharges,

12 “(II) oversight activities by the
13 Office of Inspector General of the De-
14 partment of Education as authorized
15 by the Inspector General Act of 1978,
16 and

17 “(III) conducting analyses and
18 forecasts for estimating costs related
19 to such plans, disbursements, or dis-
20 charges.

21 “(ii) LIMITATION.—The purposes de-
22 scribed in clause (i) shall not include the
23 conduct of criminal investigations or pros-
24 ecutions.

1 “(iii) REDISCLOSURE TO INSTITU-
2 TIONS OF HIGHER EDUCATION, STATE
3 HIGHER EDUCATION AGENCIES, AND DES-
4 IGNATED SCHOLARSHIP ORGANIZATIONS.—
5 Authorized persons may redisclose return
6 information received under subparagraph
7 (C), solely for the use in the application,
8 award, and administration of financial aid
9 awarded by the Federal Government or
10 awarded by a person described in sub-
11 clause (I), (II), or (III), to the following
12 persons:

13 “(I) An institution of higher edu-
14 cation participating in a program
15 under subpart 1 of part A, part C, or
16 part D of title IV of the Higher Edu-
17 cation Act of 1965.

18 “(II) A State higher education
19 agency.

20 “(III) A scholarship organization
21 which is an entity designated (prior to
22 the date of the enactment of this
23 clause) by the Secretary of Education
24 under section 483(a)(3)(E) of such
25 Act.

1 This clause shall only apply to the extent
2 that the taxpayer with respect to whom the
3 return information relates provides written
4 consent for such redisclosure to the Sec-
5 retary of Education.

6 “(E) AUTHORIZED PERSON.—For pur-
7 poses of this paragraph, the term ‘authorized
8 person’ means, with respect to information dis-
9 closed under subparagraph (A), (B), or (C),
10 any person who—

11 “(i) is an officer, employee, or con-
12 tractor, of the Department of Education,
13 and

14 “(ii) is specifically authorized and des-
15 ignated by the Secretary of Education for
16 purposes of such subparagraph (applied
17 separately with respect to each such sub-
18 paragraph).

19 “(F) JOINT RETURNS.—In the case of a
20 joint return, any disclosure authorized under
21 subparagraph (A), (B), or (C) with respect to
22 an individual shall be treated for purposes of
23 this paragraph as applying with respect to the
24 taxpayer.”.

1 (b) CONFIDENTIALITY OF RETURN INFORMATION.—
2 Section 6103(a)(3) of such Code is amended by inserting
3 “, (13)” after “(12)”.

4 (c) CONFORMING AMENDMENTS.—

5 (1) Section 6103(p)(3)(A) of such Code is
6 amended by striking “(13)”.

7 (2) Section 6103(p)(4) of such Code is amend-
8 ed by inserting “, (13)” after “(l)(10)” each place
9 it appears.

10 (d) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to disclosures made after the Sec-
12 retary of the Treasury (or the Secretary’s designee) sub-
13 mits a written notification to the Committee on Ways and
14 Means of the House of Representatives and the Committee
15 on Finance of the Senate that the Secretary of Education
16 has demonstrated a readiness to comply with the stand-
17 ards outlined in Internal Revenue Service Publication
18 1075 with respect to return information received under
19 section 6103(l)(13) of the Internal Revenue Code of 1986.

20 (e) REQUIREMENT TO DESIGNATE THE INSPECTOR
21 GENERAL OF THE DEPARTMENT OF EDUCATION AS AN
22 AUTHORIZED PERSON.—The Secretary of Education shall
23 authorize and designate the Inspector General of the De-
24 partment of Education as an authorized person under sub-
25 paragraph (E)(ii) of section 6103(l)(13) of the Internal

1 Revenue Code of 1986 for purposes of subparagraphs (A),
2 (B), and (C) of such section.

3 (f) REPORT TO TREASURY.—The Secretary of Edu-
4 cation shall annually submit a written report to the Sec-
5 retary of the Treasury—

6 (1) regarding redisclosures of return informa-
7 tion under subparagraph (D)(iii) of section
8 6103(l)(13) of the Internal Revenue Code of 1986,
9 including the number of such redisclosures; and

10 (2) regarding any unauthorized use, access, or
11 disclosure of return information disclosed under such
12 section.

13 (g) REPORT TO CONGRESS.—The Secretary of the
14 Treasury (or the Secretary’s designee) shall annually sub-
15 mit a written report to Congress regarding disclosures
16 under section 6103(l)(13) of the Internal Revenue Code
17 of 1986, including information provided to the Secretary
18 under subsection (f).

19 **SEC. 3. AUTOMATIC RECERTIFICATION OF INCOME.**

20 (a) INCOME-CONTINGENT REPAYMENT.—

21 (1) IN GENERAL.—Section 455(e) of the Higher
22 Education Act of 1965 (20 U.S.C. 1087e(e)) is
23 amended by adding at the end the following:

24 “(8) AUTOMATIC RECERTIFICATION.—

1 “(A) IN GENERAL.—The Secretary shall
2 establish and implement, with respect to any
3 borrower described in subparagraph (B), proce-
4 dures to—

5 “(i) use return information disclosed
6 under section 6103(l)(13) of the Internal
7 Revenue Code of 1986, pursuant to ap-
8 proval provided under section 494, to de-
9 termine the repayment obligation of the
10 borrower without further action by the bor-
11 rower;

12 “(ii) allow the borrower (or the spouse
13 of the borrower), at any time, to opt out
14 of disclosure under such section
15 6103(l)(13) and instead provide such infor-
16 mation as the Secretary may require to de-
17 termine the repayment obligation of the
18 borrower (or withdraw from the repayment
19 plan under this subsection); and

20 “(iii) provide the borrower with an op-
21 portunity to update the return information
22 so disclosed before the determination of the
23 repayment obligation of the borrower.

24 “(B) APPLICABILITY.—Subparagraph (A)
25 shall apply to each borrower of a loan made

1 under this part who, on or after the date on
2 which the Secretary establishes procedures
3 under such subparagraph—

4 “(i) selects, or is required to repay
5 such loan pursuant to, an income-conti-
6 gent repayment plan; or

7 “(ii) recertifies income or family size
8 under such plan.”.

9 (2) CONFORMING AMENDMENT.—Section
10 455(e)(6) of the Higher Education Act of 1965 (20
11 U.S.C. 1087e(e)(6)) is amended—

12 (A) by striking “including notification of
13 such borrower” and all that follows through
14 “that if a borrower” and inserting “including
15 notification of such borrower, that if a bor-
16 rower”; and

17 (B) by striking “as determined using the
18 information described in subparagraph (A), or
19 the alternative documentation described in
20 paragraph (3)”.

21 (b) INCOME-BASED REPAYMENT.—Section 493C(c)
22 of the Higher Education Act of 1965 (20 U.S.C. 1098e(e))
23 is amended—

24 (1) by striking “The Secretary shall establish”
25 and inserting the following:

1 “(1) IN GENERAL.—The Secretary shall estab-
2 lish”; and

3 (2) by striking “The Secretary shall consider”
4 and inserting the following:

5 “(2) PROCEDURES FOR ELIGIBILITY.—The Sec-
6 retary shall—

7 “(A) consider”;

8 (3) by striking “428C(b)(1)(E).” and inserting
9 the following: “428C(b)(1)(E); and

10 “(B) carry out, with respect to borrowers
11 of any loan made under part D (other than an
12 excepted PLUS loan or excepted consolidation
13 loan), procedures for income-based repayment
14 plans that are equivalent to the procedures car-
15 ried out under section 455(e)(8) with respect to
16 income-contingent repayment plans.”.

17 **SEC. 4. AUTOMATIC INCOME MONITORING PROCEDURES**

18 **AFTER A TOTAL AND PERMANENT DIS-**

19 **ABILITY DISCHARGE.**

20 Section 437(a) of the Higher Education Act of 1965
21 (20 U.S.C. 1087(a)) is amended by adding at the end the
22 following:

23 “(3) AUTOMATIC INCOME MONITORING.—

24 “(A) IN GENERAL.—The Secretary shall
25 establish and implement, with respect to any

1 borrower described in subparagraph (B), proce-
2 dures to—

3 “(i) use return information disclosed
4 under section 6103(l)(13) of the Internal
5 Revenue Code of 1986, pursuant to ap-
6 proval provided under section 494, to de-
7 termine the borrower’s continued eligibility
8 for the loan discharge described in sub-
9 paragraph (B);

10 “(ii) allow the borrower, at any time,
11 to opt out of disclosure under such section
12 6103(l)(13) and instead provide such infor-
13 mation as the Secretary may require to de-
14 termine the borrower’s continued eligibility
15 for such loan discharge; and

16 “(iii) provide the borrower with an op-
17 portunity to update the return information
18 so disclosed before determination of such
19 borrower’s continued eligibility for such
20 loan discharge.

21 “(B) APPLICABILITY.—Subparagraph (A)
22 shall apply—

23 “(i) to each borrower of a loan that is
24 discharged due to the total and permanent

1 disability (within the meaning of this sub-
2 section) of the borrower; and

3 “(ii) during the period beginning on
4 the date on which such loan is so dis-
5 charged and ending on the first day on
6 which such loan may no longer be rein-
7 stated.”.

8 **SEC. 5. PROCEDURE AND REQUIREMENTS FOR REQUEST-**
9 **ING TAX RETURN INFORMATION FROM THE**
10 **INTERNAL REVENUE SERVICE.**

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

14 **“SEC. 494. PROCEDURE AND REQUIREMENTS FOR RE-**
15 **QUESTING TAX RETURN INFORMATION FROM**
16 **THE INTERNAL REVENUE SERVICE.**

17 “(a) NOTIFICATION AND APPROVAL REQUIRE-
18 MENTS.—

19 “(1) FEDERAL STUDENT FINANCIAL AID.—In
20 the case of any written or electronic application
21 under section 483 by an individual for Federal stu-
22 dent financial aid under a program authorized under
23 subpart 1 of part A, part C, or part D, the Sec-
24 retary, with respect to such individual and any par-

1 ent or spouse whose financial information is required
2 to be provided on such application, shall—

3 “(A) notify such individuals that—

4 “(i) if such individuals provide ap-
5 proval under subparagraph (B), the Sec-
6 retary will have the authority to request
7 that the Secretary of the Treasury disclose
8 return information of such individuals to
9 authorized persons (as defined in section
10 6103(l)(13) of the Internal Revenue Code
11 of 1986) for the relevant purposes de-
12 scribed in such section; and

13 “(ii) the failure to provide such ap-
14 proval for such disclosure will result in the
15 Secretary being unable to calculate eligi-
16 bility for such aid to such individual; and

17 “(B) require, as a condition of eligibility
18 for such aid, that such individuals affirmatively
19 approve the disclosure described in subpara-
20 graph (A)(i).

21 “(2) INCOME-CONTINGENT AND INCOME-BASED
22 REPAYMENT.—

23 “(A) NEW APPLICANTS.—In the case of
24 any written or electronic application by an indi-
25 vidual for an income-contingent or income-

1 based repayment plan for a loan under part D,
2 the Secretary, with respect to such individual
3 and any spouse of such individual, shall—

4 “(i) provide to such individuals the
5 notification described in paragraph
6 (1)(A)(i);

7 “(ii) require, as a condition of eligi-
8 bility for such repayment plan, that such
9 individuals—

10 “(I) affirmatively approve the
11 disclosure described in paragraph
12 (1)(A)(i) and agree that such approval
13 shall serve as an ongoing approval of
14 such disclosure until the date on
15 which the individual elects to opt out
16 of such disclosure under section
17 455(e)(8) or the equivalent procedures
18 established under section
19 493C(c)(2)(B), as applicable; or

20 “(II) provide such information as
21 the Secretary may require to confirm
22 the eligibility of such individual for
23 such repayment plan.

24 “(B) RECERTIFICATIONS.—With respect to
25 the first written or electronic recertification

1 (after the date of the enactment of the Faster
2 Access to Federal Student Aid Act of 2019) of
3 an individual’s income or family size for pur-
4 poses of an income-contingent or income-based
5 repayment plan (entered into before the date of
6 the enactment of the Faster Access to Federal
7 Student Aid Act of 2019) for a loan under part
8 D, the Secretary, with respect to such indi-
9 vidual and any spouse of such individual, shall
10 meet the requirements of clauses (i) and (ii) of
11 subparagraph (A) with respect to such recertifi-
12 cation.

13 “(3) TOTAL AND PERMANENT DISABILITY.—In
14 the case of any written or electronic application by
15 an individual for a discharge of a loan under this
16 title based on total and permanent disability (within
17 the meaning of section 437(a)) that requires income
18 monitoring, the Secretary shall—

19 “(A) provide to such individual the notifi-
20 cation described in paragraph (1)(A)(i); and

21 “(B) require, as a condition of eligibility
22 for such discharge, that such individual—

23 “(i) affirmatively approve the disclo-
24 sure described in paragraph (1)(A)(i) and
25 agree that such approval shall serve as an

1 ongoing approval of such disclosure until
2 the earlier of—

3 “(I) the date on which the indi-
4 vidual elects to opt out of such disclo-
5 sure under section 437(a)(3)(A); or

6 “(II) the first day on which such
7 loan may no longer be reinstated; or

8 “(ii) provide such information as the
9 Secretary may require to confirm the eligi-
10 bility of such individual for such discharge.

11 “(b) LIMIT ON AUTHORITY.—The Secretary shall
12 only have authority to request that the Secretary of the
13 Treasury disclose return information under section
14 6103(l)(13) of the Internal Revenue Code of 1986 with
15 respect to an individual if the Secretary of Education has
16 obtained approval under subsection (a) for such disclo-
17 sure.”.

18 (b) CONFORMING AMENDMENT.—Section 484(q) of
19 the Higher Education Act of 1965 (20 U.S.C. 1091(q))
20 is repealed.

21 **SEC. 6. REPORTS ON IMPLEMENTATION.**

22 (a) IN GENERAL.—Not later than each specified
23 date, the Secretary of Education and the Secretary of the
24 Treasury shall issue joint reports to the Committees on
25 Health, Education, Labor, and Pensions and Finance of

1 the Senate and the Committees on Education and Labor
2 and Ways and Means of the House of Representatives re-
3 garding the amendments made by this Act. Each such re-
4 port shall include, as applicable—

5 (1) an update on the status of implementation
6 of the amendments made by this Act;

7 (2) an evaluation of how such implementation
8 had affected the processing of applications for Fed-
9 eral student financial aid, applications for income-
10 based repayment and income-contingent repayment,
11 and applications for discharge of loans under title IV
12 of the Higher Education Act of 1965 (20 U.S.C.
13 1070 et seq.) based on total and permanent dis-
14 ability; and

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

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

19 (1) the date that is 90 days after the date of
20 the enactment of this Act;

21 (2) the date that is 120 days after the first day
22 that the disclosure process established under section
23 6103(l)(13) of the Internal Revenue Code of 1986,
24 as amended by section 3(a) of this Act, is oper-
25 ational and accessible to officers, employees, and

1 contractors of the Department of Education (as spe-
2 cifically authorized and designated by the Secretary
3 of Education); and

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

○