116TH CONGRESS
2d Session
HOUSE OF REPRESENTATIVES
REPT. 116–682
Part 1

PRIVATE LOAN DISABILITY DISCHARGE ACT OF 2019

DECEMBER 21, 2020.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Ms. WATERS, from the Committee on Financial Services, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 4545]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 4545) to provide for the discharge of a private education loan in the case of death or total and permanent disability of a student obligor, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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19–006

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Loan Disability Discharge Act of 2019".

SEC. 2. PROTECTIONS FOR OBLIGORS AND COSIGNERS IN CASE OF DEATH OR TOTAL AND PERMANENT DISABILITY.

(a) IN GENERAL.—Section 140(g) of the Truth in Lending Act (15 U.S.C. 1650(g)) is amended—

(1) in paragraph (2)—

(A) in the heading, by striking "IN CASE OF DEATH OF BORROWER";

(B) in subparagraph (A), by inserting after "of the death", the following: "or total and permanent disability"; and

(C) in subparagraph (C), by inserting after "of the death", the following: "or total and permanent disability"; and

(2) by adding at the end the following:

"(3) DISCHARGE IN CASE OF DEATH OR TOTAL AND PERMANENT DISABILITY OF BORROWER.—The holder of a private education loan shall, when notified of the death or total and permanent disability of a student obligor, discharge the liability of the student obligor on the loan and may not, after such notification—

"(A) attempt to collect on the outstanding liability of the student obligor; and

"(B) in the case of total and permanent disability, monitor the disability status of the student obligor at any point after the date of discharge.

"(4) TOTAL AND PERMANENT DISABILITY DEFINED.—For the purposes of this subsection and with respect to an individual, the term 'total and permanent disability' means the individual is totally and permanently disabled, as such term is defined in section 685.102(b) of title 34 of the Code of Federal Regulations.

"(5) PRIVATE DISCHARGE IN CASES OF CERTAIN DISCHARGE FOR DEATH OR DISABILITY.—The holder of a private education loan shall, when notified of the discharge of liability of a student obligor on a loan described under section 108(f)(5)(A) of the Internal Revenue Code of 1986, discharge any liability of the student obligor (and any cosigner) on any private education loan which the private education loan holder holds and may not, after such notification—

"(A) attempt to collect on the outstanding liability of the student obligor; and

"(B) in the case of total and permanent disability, monitor the disability status of the student obligor at any point after the date of discharge.".

(b) TAX LIABILITY.—Section 108(f)(5)(A) of the Internal Revenue Code of 1986 (26 U.S.C. 108(f)(5)(A)) is amended—

(1) by striking ", and before January 1, 2026";

(2) in clause (ii), by striking "or";

(3) by redesignating clause (iii) as clause (iv); and

(4) by inserting after clause (ii) the following:

"(iii) pursuant to paragraph (3) or (5) of section 140(g) of the Truth in Lending Act, or".

(c) RULEMAKING.—The Director of the Bureau of Consumer Financial Protection may issue rules to implement the amendments made by subsection (a) as the Director determines appropriate.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

PURPOSE AND SUMMARY

On September 27, 2019, Representative Madeleine Dean introduced H.R. 4545, the "Private Loan Disability Discharge Act of 2019," which would amend TILA to include a required discharge of private student loans in the case of permanent disability of the borrower. Cosigners will be discharged of their obligation in the case of the borrower's permanent disability, which is defined as the same standard set by the discharge provision of federal student loans.

BACKGROUND AND NEED FOR LEGISLATION

Current law does not require that a private student loan lender discharge the student debt of a borrower or their cosigner in the case of permanent disability of the borrower. The Truth in Lending Act (TILA) does currently require the discharge of a student loan for the borrower and cosigner in the case of death of the borrower. Beyond this requirement, private student lenders are free to make any policy on discharge of debt in their promissory notes. There is no standard system for disability cancellations for private loans.

Federal student loans, on the other hand, provide greater protections. Any loan that is issued by the federal government can be discharged in the event of permanent total disability of the borrower or in the event of death. Federal student loans generally do not have cosigners, so there are no provisions related to cosigners being discharged.

H.R. 4545 would bring private student loans in line with federal student loans by amending the Truth in Lending Act (TILA) to include a required discharge of private student loans in the case of permanent and total disability of the borrower. Additionally, H.R. 4545 would allow cosigners to be discharged in the case of the borrower's permanent disability, and it would require private lenders who are notified that the federal government has discharged the federal student loans of a borrower to discharge the private student loans of that same borrower. Furthermore, H.R. 4545 would permanently exempt any tax liability accrued from the discharge, which currently only runs until January 1, 2026. Finally, H.R. 4545 would authorize the CFPB to issue rules to implement these changes.

This bill uses the same definition for total and permanent disability as the standard for discharging federal student loans, which can occur in two ways. Firstly, a disabled borrower would be eligible when the individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that could be expected to result in death; has lasted for a continuous period of 60 months or more; or, can be expected to last for 60 months or more. Secondly, a disabled borrower would be eligible when the individual has been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected disability.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides that H.R. 4545 may be cited as the "Private Loan Disability Discharge Act of 2019".

Section 2. Definition of employee affected by a shutdown

This section amends Section 140(g) of the Truth in Lending Act (TILA) to include a required discharge of private student loans in the case of permanent and total disability of the borrower. It adds the cosigner discharge in the case of the borrower's permanent disability. It requires private lenders who are notified that the federal government has discharged the federal student loans of a borrower to discharge the private student loans of that same borrower. This section permanently exempts any tax liability accrued from the dis-

charge, which currently only runs until January 1, 2026. When a loan is discharged, it is considered income and could be taxed after 2026. This section also gives the Director of the Consumer Financial Protection Bureau the power to issue rules to implement these changes.

This bill uses the same definition for total and permanent disability as the standard for discharging federal student loans. Total and permanent disability is defined as the individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that could be expected to result in death, has lasted or can be expected to last for a continuous period of 60 months or more; or, the individual has been determined by the Secretary of Veterans Affairs to be unemployable due to a service-connected disability.

HEARINGS

For the purposes of section 103(i) of H. Res. 6 for the 116th Congress, on September 10, 2019, the Committee on Financial Services held a hearing to consider a discussion draft of H.R. 5287 entitled "A $1.5 Trillion Crisis: Protecting Student Borrowers and Holding Student Loan Servicers Accountable" to consider nine discussion drafts. Witnesses consisted of Seth Frotman, Executive Director, Student Borrower Protection Center; Persis Yu, Staff Attorney, National Consumer Law Center; Ashley Harrington, Senior Policy Counsel, Center for Responsible Lending; and Hasan Minhaj, Writer, Producer, and Host; and Jason Delisle, Resident Fellow, American Enterprise Institute

COMMITTEE CONSIDERATION

The Committee on Financial Services met in open session on December 11, 2019, and ordered H.R. 4545 to be reported favorably to the House without an amendment in the nature of a substitute by a recorded vote of 32 yeas and 22 neas, a quorum being present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H.R. 4545:

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*	X	
	Mrs. Maloney	X	
	Ms. Velázquez	X	
	Mr. Sherman	X	
	Mr. Meeks	X	
	Mr. Clay	X	
	Mr. Scott		
	Mr. Green	X	
	Mr. Cleaver	X	
	Mr. Perlmutter	X	
	Mr. Himes	X	
	Mr. Foster	X	
	Mrs. Beatty	X	
	Mr. Heck	X	
	Mr. Vargas	X	
	Mr. Gottheimer	X	
	Mr. Gonzalez (TX)	X	
	Mr. Lawson	X	
	Mr. San Nicolas	X	
	Ms. Tlaib	X	
	Ms. Porter	X	
	Ms. Axne	X	
	Mr. Casten	X	
	Ms. Pressley	X	
	Mr. McAdams	X	
	Ms. Ocasio-Cortez	X	
	Ms. Wexton	X	
	Mr. Lynch	X	
	Ms. Gabbard		
	Ms. Adams	X	
	Ms. Dean	X	
	Mr. Garcia (IL)	X	
	Ms. Garcia (TX)	X	
	Mr. Phillips	X	
34			
	Mr. McHenry, *Ranking Member*		X
	Mrs. Wagner		X
	Mr. King		X
	Mr. Lucas		X
	Mr. Posey		X
	Mr. Luetkemeyer		X
	Mr. Huizenga		X
	Mr. Stivers		X
	Mr. Barr		X
	Mr. Tipton		X
	Mr. Williams		X
	Mr. Hill		X
	Mr. Emmer		X
	Mr. Zeldin		X
	Mr. Loudermilk		
	Mr. Mooney		X
	Mr. Davidson		X
	Mr. Budd		X
	Mr. Kustoff		X
	Mr. Hollingsworth		X
	Mr. Gonzalez (OH)		X
	Mr. Rose		X
	Mr. Steil		X
	Mr. Gooden		X
	Mr. Riggleman		X
	Mr. Timmons		X
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Committee on Financial Services
Full Committee
116th Congress (1st Session)

Date: 12/10/2019

Measure H.R. 4545

Amendment No.

Offered by: Ms. Dean, Final Passage

Agreed To	Yes	No	Prsnt	Wdrn
Voice Vote	Ayes		Nays	

Record Vote	FC
	32 Ayes- 25 Noes

Present	Representatives	Ayes	Nays
	Ms. Waters, *Chairwoman*		X
	Mrs. Maloney		X
	Ms. Velázquez		X
	Mr. Sherman		X
	Mr. Meeks		X
	Mr. Clay		X
	Mr. Scott		
	Mr. Green		X
	Mr. Cleaver		X
	Mr. Perlmutter		X
	Mr. Himes		X
	Mr. Foster		X
	Mrs. Beatty		X
	Mr. Heck		X
	Mr. Vargas		X
	Mr. Gottheimer		X
	Mr. Gonzalez (TX)		X
	Mr. Lawson		X
	Mr. San Nicolas		X
	Ms. Tlaib		X
	Ms. Porter		X
	Ms. Axne		X
	Mr. Casten		X
	Ms. Pressley		X
	Mr. McAdams		X
	Ms. Ocasio-Cortez		X
	Ms. Wexton		X
	Mr. Lynch		X
	Ms. Gabbard		
	Ms. Adams		X
	Ms. Dean		X
	Mr. Garcia (IL)		X
	Ms. Garcia (TX)		X
	Mr. Phillips		X
34			
	Mr. McHenry, *Ranking Member*	X	
	Mrs. Wagner	X	
	Mr. King	X	
	Mr. Lucas	X	
	Mr. Posey	X	
	Mr. Luetkemeyer	X	
	Mr. Huizenga	X	
	Mr. Stivers	X	
	Mr. Barr	X	
	Mr. Tipton	X	
	Mr. Williams	X	
	Mr. Hill	X	
	Mr. Emmer	X	
	Mr. Zeldin	X	
	Mr. Loudermilk		
	Mr. Mooney	X	
	Mr. Davidson	X	
	Mr. Budd	X	
	Mr. Kustoff	X	
	Mr. Hollingsworth	X	
	Mr. Gonzalez (OH)	X	
	Mr. Rose	X	
	Mr. Steil	X	
	Mr. Gooden	X	
	Mr. Riggleman	X	
	Mr. Timmons	X	
26			

Committee on Financial Services
Full Committee
116th Congress (1st Session)

Date:____ 12/10/2019

Measure __ H.R. 4545

Amendment No._____ 3a

Offered by:_____ Mrs. Wagner to Dean ANS

Agreed To	Yes	No	Prsnt	Wdrn
Voice Vote	Ayes		Nays	

Record Vote	FC
	25 Ayes- 32 Noes

STATEMENT OF OVERSIGHT FINDINGS AND RECOMMENDATIONS OF THE COMMITTEE

In compliance with clause 3(c)(1) of rule XIII and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in the descriptive portions of this report.

STATEMENT OF PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause (3)(c) of rule XIII of the Rules of the House of Representatives, the goals of H.R. 4545 are to ensure that government employees, contractors, and other consumers affected by a Federal government shutdown.

NEW BUDGET AUTHORITY AND CBO ESTIMATE

Pursuant to clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the *Congressional Budget Act of 1974,* and pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974,* the Committee has received the following estimate for H.R. 4545 from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 22, 2020.

Hon. MAXINE WATERS,
Chairwoman, Committee on Financial Services,
House of Representatives, Washington, DC.

DEAR MADAM CHAIRWOMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4545, the Private Loan Disability Discharge Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Nathaniel Frentz.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

At a Glance

H.R. 4545, Private Loan Disability Discharge Act of 2019

As ordered reported by the House Committee on Financial Services on December 11, 2019

By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	0	0
Revenues	0	0	-60
Increase in the Deficit	0	0	60
Spending Subject to Appropriation (Outlays)	0	0	0

Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	< $5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold

The bill would

- Amend the Truth in Lending Act to require any private student loan to be discharged if the student is determined to have a total and permanent disability
- Amend the Internal Revenue Code so that such a discharge is not treated as income for tax purposes
- Impose private-sector mandates by requiring holders of private student loans to discharge certain debts and prohibiting loan holders from attempting to collect on those debts

Estimated budgetary effects would primarily stem from

- A decrease in tax revenue from the provision that would exempt from taxable income certain discharges of student loan debt

The Congressional Budget Act of 1974, as amended, stipulates that revenue estimates provided by the staff of the Joint Committee on Taxation (JCT) will be the official estimates for all tax legislation considered by Congress. As such, CBO incorporates those estimates into its cost estimates of the effects of legislation. All of the estimates for the tax provisions of H.R. 4545 were provided by JCT.

Bill summary: H.R. 4545 would amend the Truth in Lending Act to require that any private student loan be discharged (that is, forgiven) if the student is determined to have a total and permanent disability. The bill also would amend the Internal Revenue Code so that such a discharge would not be treated as income for tax purposes.

Estimated Federal cost: The estimated budgetary effect of H.R. 4545 is shown in Table 1.

TABLE 1.—CBO'S ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS OF H.R. 4545, THE PRIVATE LOAN DISABILITY DISCHARGE ACT OF 2019, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON FINANCIAL SERVICES ON DECEMBER 11, 2019

	By fiscal year, millions of dollars—												
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2020–2025	2020–2030
Net Increase in the Deficit													
Pay-As-You-Go Effect	0	0	0	0	0	0	1	14	14	15	16	0	60

Source: Staff of the Joint Committee on Taxation.

Basis of estimate: The Congressional Budget Act of 1974, as amended, stipulates that revenue estimates provided by the staff of the Joint Committee on Taxation (JCT) are the official estimates for all tax legislation considered by the Congress. CBO therefore incorporates those estimates into its cost estimates of the effects of legislation. All of the estimates for the tax provisions of H.R. 4545 were provided by JCT.

Because the bill would not affect federal student loans, CBO estimates that there would be no effect on federal spending.

Revenues: JCT estimates that the bill would decrease revenues by $60 million over the 2020–2030 period.

Uncertainty: The estimates provided here are uncertain because they rely on underlying projections and other estimates that are uncertain. Specifically, they are based in part on CBO's economic projections for the next decade under current law, and on estimates of changes in taxpayers' behavior in response to changes in tax rules.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The changes in revenues that are subject to those pay-as-you-go procedures are shown in Table 1.

Increase in long-term deficits: JCT estimates that enacting H.R. 4545 would increase on-budget deficits by less than $5 billion in each of the four consecutive 10-year periods beginning in 2030.

Mandates: The nontax provisions of H.R. 4545 contain private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) by requiring debt holders to discharge the debt of a student borrower who has been declared permanently and totally disabled and prohibiting those debt-holders from attempting to collect on the discharged debt. CBO estimates that, given the small number of loans affected, the cost of the mandate would fall below the annual private-sector threshold of $168 million in 2020, adjusted annually for inflation.

CBO has determined that the nontax provisions of the bill would not impose intergovernmental mandates as defined in UMRA.

JCT has determined that the tax provisions of the bill would not impose intergovernmental or private-sector mandates.

Estimate prepared by: Revenues: Staff of the Joint Committee on Taxation and Nathaniel Frentz; Mandates: Staff of the Joint Committee on Taxation and Lilia Ledezma.

Estimate reviewed by: Joshua Shakin, Chief, Revenue Estimating Unit; John McClelland, Director of Tax Analysis; Susan Willie, Chief, Public and Private Mandates Unit; Theresa Gullo, Director of Budget Analysis.

COMMITTEE COST ESTIMATE

Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison of the costs that would be incurred in carrying out H.R. 4545. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the *Congressional Budget Act*, which is attached.

UNFUNDED MANDATE STATEMENT

Pursuant to Section 423 of the *Congressional Budget and Impoundment Control Act* (as amended). The Committee adopts as its own the estimate of federal mandates regarding H.R. 4545, as amended, prepared by the Director of the Congressional Budget Office.

ADVISORY COMMITTEE

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Pursuant to section 102(b)(3) of the *Congressional Accountability Act*, Pub. L. No. 104–1 H.R. 4545, as amended, does not apply to terms and conditions of employment or to access to public services or accommodations within the legislative branch.

EARMARK STATEMENT

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 4545 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as described in clauses 9(e), 9(f), and 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of H.R. 4545 establishes or reauthorizes a program of the Federal Government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, H.R. 4545, as reported, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

TRUTH IN LENDING ACT

TITLE I—CONSUMER CREDIT COST DISCLOSURE

* * * * * * *

CHAPTER 2—CREDIT TRANSACTIONS

* * * * * * *

§ 140. Preventing unfair and deceptive private educational lending practices and eliminating conflicts of interest

(a) DEFINITIONS.—As used in this section—

(1) the term "cosigner"—

(A) means any individual who is liable for the obligation of another without compensation, regardless of how designated in the contract or instrument with respect to that obligation, other than an obligation under a private education loan extended to consolidate a consumer's pre-existing private education loans;

(B) includes any person the signature of which is requested as condition to grant credit or to forbear on collection; and

(C) does not include a spouse of an individual described in subparagraph (A), the signature of whom is needed to perfect the security interest in a loan.

(2) the term "covered educational institution"—

(A) means any educational institution that offers a post-secondary educational degree, certificate, or program of study (including any institution of higher education); and

(B) includes an agent, officer, or employee of the educational institution;

(3) the term "gift"—

(A)(i) means any gratuity, favor, discount, entertainment, hospitality, loan, or other item having more than a de minimis monetary value, including services, transportation, lodging, or meals, whether provided in kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred; and

(ii) includes an item described in clause (i) provided to a family member of an officer, employee, or agent of a covered educational institution, or to any other individual based on that individual's relationship with the officer, employee, or agent, if—

(I) the item is provided with the knowledge and acquiescence of the officer, employee, or agent; and

(II) the officer, employee, or agent has reason to believe the item was provided because of the official position of the officer, employee, or agent; and

(B) does not include—

(i) standard informational material related to a loan, default aversion, default prevention, or financial literacy;

(ii) food, refreshments, training, or informational material furnished to an officer, employee, or agent of a covered educational institution, as an integral part of a training session or through participation in an advisory council that is designed to improve the service of the private educational lender to the covered educational institution, if such training or participation contributes to the professional development of the officer, employee, or agent of the covered educational institution;

(iii) favorable terms, conditions, and borrower benefits on a private education loan provided to a student employed by the covered educational institution, if such terms, conditions, or benefits are not provided because of the student's employment with the covered educational institution;

(iv) the provision of financial literacy counseling or services, including counseling or services provided in coordination with a covered educational institution, to the extent that such counseling or services are not undertaken to secure—

(I) applications for private education loans or private education loan volume;

(II) applications or loan volume for any loan made, insured, or guaranteed under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); or

(III) the purchase of a product or service of a specific private educational lender;

(v) philanthropic contributions to a covered educational institution from a private educational lender that are unrelated to private education loans and are not made in exchange for any advantage related to private education loans; or

(vi) State education grants, scholarships, or financial aid funds administered by or on behalf of a State;

(4) the term "institution of higher education" has the same meaning as in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002);

(5) the term "postsecondary educational expenses" means any of the expenses that are included as part of the cost of attendance of a student, as defined under section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll);

(6) the term "preferred lender arrangement" has the same meaning as in section 151 of the Higher Education Act of 1965;

(7) the term "private educational lender" means—

(A) a financial institution, as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813) that solicits, makes, or extends private education loans;

(B) a Federal credit union, as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752) that solicits, makes, or extends private education loans; and

(C) any other person engaged in the business of soliciting, making, or extending private education loans;

(8) the term "private education loan"—

(A) means a loan provided by a private educational lender that—

(i) is not made, insured, or guaranteed under of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and

(ii) is issued expressly for postsecondary educational expenses to a borrower, regardless of whether the loan is provided through the educational institution that the subject student attends or directly to the borrower from the private educational lender; and

(B) does not include an extension of credit under an open end consumer credit plan, a reverse mortgage transaction, a residential mortgage transaction, or any other loan that is secured by real property or a dwelling; and

(9) the term "revenue sharing" means an arrangement between a covered educational institution and a private educational lender under which—

(A) a private educational lender provides or issues private education loans with respect to students attending the covered educational institution;

(B) the covered educational institution recommends to students or others the private educational lender or the private education loans of the private educational lender; and

(C) the private educational lender pays a fee or provides other material benefits, including profit sharing, to the covered educational institution in connection with the private education loans provided to students attending the covered educational institution or a borrower acting on behalf of a student.

(b) PROHIBITION ON CERTAIN GIFTS AND ARRANGEMENTS.—A private educational lender may not, directly or indirectly—

(1) offer or provide any gift to a covered educational institution in exchange for any advantage or consideration provided to such private educational lender related to its private education loan activities; or

(2) engage in revenue sharing with a covered educational institution.

(c) PROHIBITION ON CO-BRANDING.—A private educational lender may not use the name, emblem, mascot, or logo of the covered educational institution, or other words, pictures, or symbols readily identified with the covered educational institution, in the marketing of private education loans in any way that implies that the covered educational institution endorses the private education loans offered by the private educational lender.

(d) ADVISORY BOARD COMPENSATION.—Any person who is employed in the financial aid office of a covered educational institution, or who otherwise has responsibilities with respect to private education loans or other financial aid of the institution, and who serves on an advisory board, commission, or group established by a private educational lender or group of such lenders shall be prohibited from receiving anything of value from the private educational lender or group of lenders. Nothing in this subsection prohibits the reimbursement of reasonable expenses incurred by an employee of a covered educational institution as part of their serv-

ice on an advisory board, commission, or group described in this subsection.

(e) PROHIBITION ON PREPAYMENT OR REPAYMENT FEES OR PENALTY.—It shall be unlawful for any private educational lender to impose a fee or penalty on a borrower for early repayment or prepayment of any private education loan.

(f) CREDIT CARD PROTECTIONS FOR COLLEGE STUDENTS.—

(1) DISCLOSURE REQUIRED.—An institution of higher education shall publicly disclose any contract or other agreement made with a card issuer or creditor for the purpose of marketing a credit card.

(2) INDUCEMENTS PROHIBITED.—No card issuer or creditor may offer to a student at an institution of higher education any tangible item to induce such student to apply for or participate in an open end consumer credit plan offered by such card issuer or creditor, if such offer is made—

(A) on the campus of an institution of higher education;

(B) near the campus of an institution of higher education, as determined by rule of the Bureau; or

(C) at an event sponsored by or related to an institution of higher education.

(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that each institution of higher education should consider adopting the following policies relating to credit cards:

(A) That any card issuer that markets a credit card on the campus of such institution notify the institution of the location at which such marketing will take place.

(B) That the number of locations on the campus of such institution at which the marketing of credit cards takes place be limited.

(C) That credit card and debt education and counseling sessions be offered as a regular part of any orientation program for new students of such institution.

(g) ADDITIONAL PROTECTIONS RELATING TO BORROWER OR COSIGNER OF A PRIVATE EDUCATION LOAN.—

(1) PROHIBITION ON AUTOMATIC DEFAULT IN CASE OF DEATH OR BANKRUPTCY OF NON-STUDENT OBLIGOR.—With respect to a private education loan involving a student obligor and 1 or more cosigners, the creditor shall not declare a default or accelerate the debt against the student obligor on the sole basis of a bankruptcy or death of a cosigner.

(2) COSIGNER RELEASE [IN CASE OF DEATH OF BORROWER].—

(A) RELEASE OF COSIGNER.—The holder of a private education loan, when notified of the death *or total and permanent disability* of a student obligor, shall release within a reasonable timeframe any cosigner from the obligations of the cosigner under the private education loan.

(B) NOTIFICATION OF RELEASE.—A holder or servicer of a private education loan, as applicable, shall within a reasonable time-frame notify any cosigners for the private education loan if a cosigner is released from the obligations of the cosigner for the private education loan under this paragraph.

(C) DESIGNATION OF INDIVIDUAL TO ACT ON BEHALF OF THE BORROWER.—Any lender that extends a private edu-

cation loan shall provide the student obligor an option to designate an individual to have the legal authority to act on behalf of the student obligor with respect to the private education loan in the event of the death *or total and permanent disability* of the student obligor.

(3) DISCHARGE IN CASE OF DEATH OR TOTAL AND PERMANENT DISABILITY OF BORROWER.—The holder of a private education loan shall, when notified of the death or total and permanent disability of a student obligor, discharge the liability of the student obligor on the loan and may not, after such notification—

(A) attempt to collect on the outstanding liability of the student obligor; and

(B) in the case of total and permanent disability, monitor the disability status of the student obligor at any point after the date of discharge.

(4) TOTAL AND PERMANENT DISABILITY DEFINED.—For the purposes of this subsection and with respect to an individual, the term "total and permanent disability" means the individual is totally and permanently disabled, as such term is defined in section 685.102(b) of title 34 of the Code of Federal Regulations.

(5) PRIVATE DISCHARGE IN CASES OF CERTAIN DISCHARGE FOR DEATH OR DISABILITY.—The holder of a private education loan shall, when notified of the discharge of liability of a student obligor on a loan described under section 108(f)(5)(A) of the Internal Revenue Code of 1986, discharge any liability of the student obligor (and any cosigner) on any private education loan which the private education loan holder holds and may not, after such notification—

(A) attempt to collect on the outstanding liability of the student obligor; and

(B) in the case of total and permanent disability, monitor the disability status of the student obligor at any point after the date of discharge.

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INTERNAL REVENUE CODE OF 1986

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Subtitle A—Income Taxes

CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter B—COMPUTATION OF TAXABLE INCOME

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PART III—ITEMS SPECIFICALLY EXCLUDED FROM GROSS INCOME

* * * * * * *

SEC. 108. INCOME FROM DISCHARGE OF INDEBTEDNESS.

(a) EXCLUSION FROM GROSS INCOME.—

(1) IN GENERAL.—Gross income does not include any amount which (but for this subsection) would be includible in gross income by reason of the discharge (in whole or in part) of indebtedness of the taxpayer if—

(A) the discharge occurs in a title 11 case,

(B) the discharge occurs when the taxpayer is insolvent,

(C) the indebtedness discharged is qualified farm indebtedness,

(D) in the case of a taxpayer other than a C corporation, the indebtedness discharged is qualified real property business indebtedness, or

(E) the indebtedness discharged is qualified principal residence indebtedness which is discharged—

(i) before January 1, 2018, or

(ii) subject to an arrangement that is entered into and evidenced in writing before January 1, 2018.

(2) COORDINATION OF EXCLUSIONS.—

(A) TITLE 11 EXCLUSION TAKES PRECEDENCE.—Subparagraphs (B), (C), (D), and (E) of paragraph (1) shall not apply to a discharge which occurs in a title 11 case.

(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION AND QUALIFIED REAL PROPERTY BUSINESS EXCLUSION.—Subparagraphs (C) and (D) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent.

(C) PRINCIPAL RESIDENCE EXCLUSION TAKES PRECEDENCE OVER INSOLVENCY EXCLUSION UNLESS ELECTED OTHERWISE.—Paragraph (1)(B) shall not apply to a discharge to which paragraph (1)(E) applies unless the taxpayer elects to apply paragraph (1)(B) in lieu of paragraph (1)(E).

(3) INSOLVENCY EXCLUSION LIMITED TO AMOUNT OF INSOLVENCY.—In the case of a discharge to which paragraph (1)(B) applies, the amount excluded under paragraph (1)(B) shall not exceed the amount by which the taxpayer is insolvent.

(b) REDUCTION OF TAX ATTRIBUTES.—

(1) IN GENERAL.—The amount excluded from gross income under subparagraph (A), (B), or (C) of subsection (a)(1) shall be applied to reduce the tax attributes of the taxpayer as provided in paragraph (2).

(2) TAX ATTRIBUTES AFFECTED; ORDER OF REDUCTION.—Except as provided in paragraph (5), the reduction referred to in paragraph (1) shall be made in the following tax attributes in the following order:

(A) NOL.—Any net operating loss for the taxable year of the discharge, and any net operating loss carryover to such taxable year.

(B) GENERAL BUSINESS CREDIT.—Any carryover to or from the taxable year of a discharge of an amount for purposes for determining the amount allowable as a credit under section 38 (relating to general business credit).

(C) MINIMUM TAX CREDIT.—The amount of the minimum tax credit available under section 53(b) as of the beginning

of the taxable year immediately following the taxable year of the discharge.

(D) CAPITAL LOSS CARRYOVERS.—Any net capital loss for the taxable year of the discharge, and any capital loss carryover to such taxable year under section 1212.

(E) BASIS REDUCTION.—

(i) IN GENERAL.—The basis of the property of the taxpayer.

(ii) CROSS REFERENCE.—For provisions for making the reduction described in clause (i), see section 1017.

(F) PASSIVE ACTIVITY LOSS AND CREDIT CARRYOVERS.—Any passive activity loss or credit carryover of the taxpayer under section 469(b) from the taxable year of the discharge.

(G) FOREIGN TAX CREDIT CARRYOVERS.—Any carryover to or from the taxable year of the discharge for purposes of determining the amount of the credit allowable under section 27.

(3) AMOUNT OF REDUCTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the reductions described in paragraph (2) shall be one dollar for each dollar excluded by subsection (a).

(B) CREDIT CARRYOVER REDUCTION.—The reductions described in subparagraphs (B), (C), and (G) shall be 331/3 cents for each dollar excluded by subsection (a). The reduction described in subparagraph (F) in any passive activity credit carryover shall be 331/3 cents for each dollar excluded by subsection (a).

(4) ORDERING RULES.—

(A) REDUCTIONS MADE AFTER DETERMINATION OF TAX FOR YEAR.—The reductions described in paragraph (2) shall be made after the determination of the tax imposed by this chapter for the taxable year of the discharge.

(B) REDUCTIONS UNDER SUBPARAGRAPH (A) OR (D) OF PARAGRAPH (2).—The reductions described in subparagraph (A) or (D) of paragraph (2) (as the case may be) shall be made first in the loss for the taxable year of the discharge and then in the carryovers to such taxable year in the order of the taxable years from which each such carryover arose.

(C) REDUCTIONS UNDER SUBPARAGRAPHS (B) AND (G) OF PARAGRAPH (2).—The reductions described in subparagraphs (B) and (G) of paragraph (2) shall be made in the order in which carryovers are taken into account under this chapter for the taxable year of the discharge.

(5) ELECTION TO APPLY REDUCTION FIRST AGAINST DEPRECIABLE PROPERTY.—

(A) IN GENERAL.—The taxpayer may elect to apply any portion of the reduction referred to in paragraph (1) to the reduction under section 1017 of the basis of the depreciable property of the taxpayer.

(B) LIMITATION.—The amount to which an election under subparagraph (A) applies shall not exceed the aggregate adjusted bases of the depreciable property held by the tax-

payer as of the beginning of the taxable year following the taxable year in which the discharge occurs.

(C) OTHER TAX ATTRIBUTES NOT REDUCED.—Paragraph (2) shall not apply to any amount to which an election under this paragraph applies.

(c) TREATMENT OF DISCHARGE OF QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—

(1) BASIS REDUCTION.—

(A) IN GENERAL.—The amount excluded from gross income under subparagraph (D) of subsection (a)(1) shall be applied to reduce the basis of the depreciable real property of the taxpayer.

(B) CROSS REFERENCE.—For provisions making the reduction described in subparagraph (A), see section 1017.

(2) LIMITATIONS.—

(A) INDEBTEDNESS IN EXCESS OF VALUE.—The amount excluded under subparagraph (D) of subsection (a)(1) with respect to any qualified real property business indebtedness shall not exceed the excess (if any) of—

(i) the outstanding principal amount of such indebtedness (immediately before the discharge), over

(ii) the fair market value of the real property described in paragraph (3)(A) (as of such time), reduced by the outstanding principal amount of any other qualified real property business indebtedness secured by such property (as of such time).

(B) OVERALL LIMITATION.—The amount excluded under subparagraph (D) of subsection (a)(1) shall not exceed the aggregate adjusted bases of depreciable real property (determined after any reductions under subsections (b) and (g)) held by the taxpayer immediately before the discharge (other than depreciable real property acquired in contemplation of such discharge).

(3) QUALIFIED REAL PROPERTY BUSINESS INDEBTEDNESS.—The term "qualified real property business indebtedness" means indebtedness which—

(A) was incurred or assumed by the taxpayer in connection with real property used in a trade or business and is secured by such real property,

(B) was incurred or assumed before January 1, 1993, or if incurred or assumed on or after such date, is qualified acquisition indebtedness, and

(C) with respect to which such taxpayer makes an election to have this paragraph apply.

Such term shall not include qualified farm indebtedness. Indebtedness under subparagraph (B) shall include indebtedness resulting from the refinancing of indebtedness under subparagraph (B) (or this sentence), but only to the extent it does not exceed the amount of the indebtedness being refinanced.

(4) QUALIFIED ACQUISITION INDEBTEDNESS.—For purposes of paragraph (3)(B), the term "qualified acquisition indebtedness" means, with respect to any real property described in paragraph (3)(A), indebtedness incurred or assumed to acquire, construct, reconstruct, or substantially improve such property.

(5) REGULATIONS.—The Secretary shall issue such regulations as are necessary to carry out this subsection, including regulations preventing the abuse of this subsection through cross-collateralization or other means.

(d) MEANING OF TERMS; SPECIAL RULES RELATING TO CERTAIN PROVISIONS.—

(1) INDEBTEDNESS OF TAXPAYER.—For purposes of this section, the term "indebtedness of the taxpayer" means any indebtedness—

(A) for which the taxpayer is liable, or

(B) subject to which the taxpayer holds property.

(2) TITLE 11 CASE.—For purposes of this section, the term "title 11 case" means a case under title 11 of the United States Code (relating to bankruptcy), but only if the taxpayer is under the jurisdiction of the court in such case and the discharge of indebtedness is granted by the court or is pursuant to a plan approved by the court.

(3) INSOLVENT.—For purposes of this section, the term "insolvent" means the excess of liabilities over the fair market value of assets. With respect to any discharge, whether or not the taxpayer is insolvent, and the amount by which the taxpayer is insolvent, shall be determined on the basis of the taxpayer's assets and liabilities immediately before the discharge.

[(4) REPEALED. PUB. L. 99–514, TITLE VIII, § 822(B)(3)(A), OCT. 22, 1986, 100 STAT. 2373].—

(5) DEPRECIABLE PROPERTY.—The term "depreciable property" has the same meaning as when used in section 1017.

(6) CERTAIN PROVISIONS TO BE APPLIED AT PARTNER LEVEL.—In the case of a partnership, subsections (a), (b), (c), and (g) shall be applied at the partner level.

(7) SPECIAL RULES FOR S CORPORATION.—

(A) CERTAIN PROVISIONS TO BE APPLIED AT CORPORATE LEVEL.—In the case of an S corporation, subsections (a), (b), (c), and (g) shall be applied at the corporate level, including by not taking into account under section 1366(a) any amount excluded under subsection (a) of this section.

(B) REDUCTION IN CARRYOVER OF DISALLOWED LOSSES AND DEDUCTIONS.—In the case of an S corporation, for purposes of subparagraph (A) of subsection (b)(2), any loss or deduction which is disallowed for the taxable year of the discharge under section 1366(d)(1) shall be treated as a net operating loss for such taxable year. The preceding sentence shall not apply to any discharge to the extent that subsection (a)(1)(D) applies to such discharge.

(C) COORDINATION WITH BASIS ADJUSTMENTS UNDER SECTION 1367(B)(2).—For purposes of subsection (e)(6), a shareholder's adjusted basis in indebtedness of an S corporation shall be determined without regard to any adjustments made under section 1367(b)(2).

(8) REDUCTIONS OF TAX ATTRIBUTES IN TITLE 11 CASES OF INDIVIDUALS TO BE MADE BY ESTATE.—In any case under chapter 7 or 11 of title 11 of the United States Code to which section 1398 applies, for purposes of paragraphs (1) and (5) of subsection (b) the estate (and not the individual) shall be treated as the taxpayer. The preceding sentence shall not apply for

purposes of applying section 1017 to property transferred by the estate to the individual.

(9) TIME FOR MAKING ELECTION, ETC..—

(A) TIME.—An election under paragraph (5) of subsection (b) or under paragraph (3)(C) of subsection (c) shall be made on the taxpayer's return for the taxable year in which the discharge occurs or at such other time as may be permitted in regulations prescribed by the Secretary.

(B) REVOCATION ONLY WITH CONSENT.—An election referred to in subparagraph (A), once made, may be revoked only with the consent of the Secretary.

(C) MANNER.—An election referred to in subparagraph (A) shall be made in such manner as the Secretary may by regulations prescribe.

(10) CROSS REFERENCE.—For provision that no reduction is to be made in the basis of exempt property of an individual debtor, see section 1017(c)(1).

(e) GENERAL RULES FOR DISCHARGE OF INDEBTEDNESS (INCLUDING DISCHARGES NOT IN TITLE 11 CASES OR INSOLVENCY).—For purposes of this title—

(1) NO OTHER INSOLVENCY EXCEPTION.—Except as otherwise provided in this section, there shall be no insolvency exception from the general rule that gross income includes income from the discharge of indebtedness.

(2) INCOME NOT REALIZED TO EXTENT OF LOST DEDUCTIONS.—No income shall be realized from the discharge of indebtedness to the extent that payment of the liability would have given rise to a deduction.

(3) ADJUSTMENTS FOR UNAMORTIZED PREMIUM AND DISCOUNT.—The amount taken into account with respect to any discharge shall be properly adjusted for unamortized premium and unamortized discount with respect to the indebtedness discharged.

(4) ACQUISITION OF INDEBTEDNESS BY PERSON RELATED TO DEBTOR.—

(A) TREATED AS ACQUISITION BY DEBTOR.—For purposes of determining income of the debtor from discharge of indebtedness, to the extent provided in regulations prescribed by the Secretary, the acquisition of outstanding indebtedness by a person bearing a relationship to the debtor specified in section 267(b) or 707(b)(1) from a person who does not bear such a relationship to the debtor shall be treated as the acquisition of such indebtedness by the debtor. Such regulations shall provide for such adjustments in the treatment of any subsequent transactions involving the indebtedness as may be appropriate by reason of the application of the preceding sentence.

(B) MEMBERS OF FAMILY.—For purposes of this paragraph, sections 267(b) and 707(b)(1) shall be applied as if section 267(c)(4) provided that the family of an individual consists of the individual's spouse, the individual's children, grandchildren, and parents, and any spouse of the individual's children or grandchildren.

(C) ENTITIES UNDER COMMON CONTROL TREATED AS RELATED.—For purposes of this paragraph, two entities

which are treated as a single employer under subsection (b) or (c) of section 414 shall be treated as bearing a relationship to each other which is described in section 267(b).

(5) PURCHASE-MONEY DEBT REDUCTION FOR SOLVENT DEBTOR TREATED AS PRICE REDUCTION.—If—

(A) the debt of a purchaser of property to the seller of such property which arose out of the purchase of such property is reduced,

(B) such reduction does not occur—

(i) in a title 11 case, or

(ii) when the purchaser is insolvent, and

(C) but for this paragraph, such reduction would be treated as income to the purchaser from the discharge of indebtedness,

then such reduction shall be treated as a purchase price adjustment.

(6) INDEBTEDNESS CONTRIBUTED TO CAPITAL.—Except as provided in regulations, for purposes of determining income of the debtor from discharge of indebtedness, if a debtor corporation acquires its indebtedness from a shareholder as a contribution to capital—

(A) section 118 shall not apply, but

(B) such corporation shall be treated as having satisfied the indebtedness with an amount of money equal to the shareholder's adjusted basis in the indebtedness.

(7) RECAPTURE OF GAIN ON SUBSEQUENT SALE OF STOCK.—

(A) IN GENERAL.—If a creditor acquires stock of a debtor corporation in satisfaction of such corporation's indebtedness, for purposes of section 1245—

(i) such stock (and any other property the basis of which is determined in whole or in part by reference to the adjusted basis of such stock) shall be treated as section 1245 property,

(ii) the aggregate amount allowed to the creditor—

(I) as deductions under subsection (a) or (b) of section 166 (by reason of the worthlessness or partial worthlessness of the indebtedness), or

(II) as an ordinary loss on the exchange,

shall be treated as an amount allowed as a deduction for depreciation, and

(iii) an exchange of such stock qualifying under section 354(a), 355(a), or 356(a) shall be treated as an exchange to which section 1245(b)(3) applies.

The amount determined under clause (ii) shall be reduced by the amount (if any) included in the creditor's gross income on the exchange.

(B) SPECIAL RULE FOR CASH BASIS TAXPAYERS.—In the case of any creditor who computes his taxable income under the cash receipts and disbursements method, proper adjustment shall be made in the amount taken into account under clause (ii) of subparagraph (A) for any amount which was not included in the creditor's gross income but which would have been included in such gross income if such indebtedness had been satisfied in full.

(C) STOCK OF PARENT CORPORATION.—For purposes of this paragraph, stock of a corporation in control (within the meaning of section 368(c)) of the debtor corporation shall be treated as stock of the debtor corporation.

(D) TREATMENT OF SUCCESSOR CORPORATION.—For purposes of this paragraph, the term "debtor corporation" includes a successor corporation.

(E) PARTNERSHIP RULE.—Under regulations prescribed by the Secretary, rules similar to the rules of the foregoing subparagraphs of this paragraph shall apply with respect to the indebtedness of a partnership.

(8) INDEBTEDNESS SATISFIED BY CORPORATE STOCK OR PARTNERSHIP INTEREST.—For purposes of determining income of a debtor from discharge of indebtedness, if—

(A) a debtor corporation transfers stock, or

(B) a debtor partnership transfers a capital or profits interest in such partnership,

to a creditor in satisfaction of its recourse or nonrecourse indebtedness, such corporation or partnership shall be treated as having satisfied the indebtedness with an amount of money equal to the fair market value of the stock or interest. In the case of any partnership, any discharge of indebtedness income recognized under this paragraph shall be included in the distributive shares of taxpayers which were the partners in the partnership immediately before such discharge.

(9) DISCHARGE OF INDEBTEDNESS INCOME NOT TAKEN INTO ACCOUNT IN DETERMINING WHETHER ENTITY MEETS REIT QUALIFICATIONS.—Any amount included in gross income by reason of the discharge of indebtedness shall not be taken into account for purposes of paragraphs (2) and (3) of section 856(c).

(10) INDEBTEDNESS SATISFIED BY ISSUANCE OF DEBT INSTRUMENT.—

(A) IN GENERAL.—For purposes of determining income of a debtor from discharge of indebtedness, if a debtor issues a debt instrument in satisfaction of indebtedness, such debtor shall be treated as having satisfied the indebtedness with an amount of money equal to the issue price of such debt instrument.

(B) ISSUE PRICE.—For purposes of subparagraph (A), the issue price of any debt instrument shall be determined under sections 1273 and 1274. For purposes of the preceding sentence, section 1273(b)(4) shall be applied by reducing the stated redemption price of any instrument by the portion of such stated redemption price which is treated as interest for purposes of this chapter.

(f) STUDENT LOANS.—

(1) IN GENERAL.—In the case of an individual, gross income does not include any amount which (but for this subsection) would be includible in gross income by reason of the discharge (in whole or in part) of any student loan if such discharge was pursuant to a provision of such loan under which all or part of the indebtedness of the individual would be discharged if the individual worked for a certain period of time in certain professions for any of a broad class of employers.

(2) STUDENT LOAN.—For purposes of this subsection, the term "student loan" means any loan to an individual to assist the individual in attending an educational organization described in section 170(b)(1)(A)(ii) made by—

(A) the United States, or an instrumentality or agency thereof,

(B) a State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof,

(C) a public benefit corporation—

(i) which is exempt from taxation under section 501(c)(3),

(ii) which has assumed control over a State, county, or municipal hospital, and

(iii) whose employees have been deemed to be public employees under State law, or

(D) any educational organization described in section 170(b)(1)(A)(ii) if such loan is made—

(i) pursuant to an agreement with any entity described in subparagraph (A), (B), or (C) under which the funds from which the loan was made were provided to such educational organization, or

(ii) pursuant to a program of such educational organization which is designed to encourage its students to serve in occupations with unmet needs or in areas with unmet needs and under which the services provided by the students (or former students) are for or under the direction of a governmental unit or an organization described in section 501(c)(3) and exempt from tax under section 501(a).

The term "student loan" includes any loan made by an educational organization described in section 170(b)(1)(A)(ii) or by an organization exempt from tax under section 501(a) to refinance a loan to an individual to assist the individual in attending any such educational organization but only if the refinancing loan is pursuant to a program of the refinancing organization which is designed as described in subparagraph (D)(ii).

(3) EXCEPTION FOR DISCHARGES ON ACCOUNT OF SERVICES PERFORMED FOR CERTAIN LENDERS.—Paragraph (1) shall not apply to the discharge of a loan made by an organization described in paragraph (2)(D) if the discharge is on account of services performed for either such organization.

(4) PAYMENTS UNDER NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM AND CERTAIN STATE LOAN REPAYMENT PROGRAMS.—In the case of an individual, gross income shall not include any amount received under section 338B(g) of the Public Health Service Act, under a State program described in section 338I of such Act, or under any other State loan repayment or loan forgiveness program that is intended to provide for the increased availability of health care services in underserved or health professional shortage areas (as determined by such State).

(5) DISCHARGES ON ACCOUNT OF DEATH OR DISABILITY.—

(A) IN GENERAL.—In the case of an individual, gross income does not include any amount which (but for this subsection) would be includible in gross income for such taxable year by reasons of the discharge (in whole or in part) of any loan described in subparagraph (B) after December 31, 2017[, and before January 1, 2026], if such discharge was—

(i) pursuant to subsection (a) or (d) of section 437 of the Higher Education Act of 1965 or the parallel benefit under part D of title IV of such Act (relating to the repayment of loan liability),

(ii) pursuant to section 464(c)(1)(F) of such Act, [or]

(iii) pursuant to paragraph (3) or (5) of section 140(g) of the Truth in Lending Act, or

[(iii)] *(iv)* otherwise discharged on account of the death or total and permanent disability of the student.

(B) LOANS DESCRIBED.—A loan is described in this subparagraph if such loan is—

(i) a student loan (as defined in paragraph (2)), or

(ii) a private education loan (as defined in section 140(7) of the Consumer Credit Protection Act (15 U.S.C. 1650(7))).

(g) SPECIAL RULES FOR DISCHARGE OF QUALIFIED FARM INDEBTEDNESS.—

(1) DISCHARGE MUST BE BY QUALIFIED PERSON.—

(A) IN GENERAL.—Subparagraph (C) of subsection (a)(1) shall apply only if the discharge is by a qualified person.

(B) QUALIFIED PERSON.—For purposes of subparagraph (A), the term "qualified person" has the meaning given to such term by section 49(a)(1)(D)(iv); except that such term shall include any Federal, State, or local government or agency or instrumentality thereof.

(2) QUALIFIED FARM INDEBTEDNESS.—For purposes of this section, indebtedness of a taxpayer shall be treated as qualified farm indebtedness if—

(A) such indebtedness was incurred directly in connection with the operation by the taxpayer of the trade or business of farming, and

(B) 50 percent or more of the aggregate gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the discharge of such indebtedness occurs is attributable to the trade or business of farming.

(3) AMOUNT EXCLUDED CANNOT EXCEED SUM OF TAX ATTRIBUTES AND BUSINESS AND INVESTMENT ASSETS.—

(A) IN GENERAL.—The amount excluded under subparagraph (C) of subsection (a)(1) shall not exceed the sum of—

(i) the adjusted tax attributes of the taxpayer, and

(ii) the aggregate adjusted bases of qualified property held by the taxpayer as of the beginning of the taxable year following the taxable year in which the discharge occurs.

(B) ADJUSTED TAX ATTRIBUTES.—For purposes of subparagraph (A), the term "adjusted tax attributes" means the sum of the tax attributes described in subparagraphs (A), (B), (C), (D), (F), and (G) of subsection (b)(2) deter-

mined by taking into account $3 for each $1 of the attributes described in subparagraphs (B), (C), and (G) of subsection (b)(2) and the attribute described in subparagraph (F) of subsection (b)(2) to the extent attributable to any passive activity credit carryover.

(C) QUALIFIED PROPERTY.—For purposes of this paragraph, the term "qualified property" means any property which is used or is held for use in a trade or business or for the production of income.

(D) COORDINATION WITH INSOLVENCY EXCLUSION.—For purposes of this paragraph, the adjusted basis of any qualified property and the amount of the adjusted tax attributes shall be determined after any reduction under subsection (b) by reason of amounts excluded from gross income under subsection (a)(1)(B).

(h) SPECIAL RULES RELATING TO QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.—

(1) BASIS REDUCTION.—The amount excluded from gross income by reason of subsection (a)(1)(E) shall be applied to reduce (but not below zero) the basis of the principal residence of the taxpayer.

(2) QUALIFIED PRINCIPAL RESIDENCE INDEBTEDNESS.—For purposes of this section, the term "qualified principal residence indebtedness" means acquisition indebtedness (within the meaning of section 163(h)(3)(B), applied by substituting "$2,000,000 ($1,000,000" for "$1,000,000 ($500,000" in clause (ii) thereof) with respect to the principal residence of the taxpayer.

(3) EXCEPTION FOR CERTAIN DISCHARGES NOT RELATED TO TAXPAYER'S FINANCIAL CONDITION.—Subsection (a)(1)(E) shall not apply to the discharge of a loan if the discharge is on account of services performed for the lender or any other factor not directly related to a decline in the value of the residence or to the financial condition of the taxpayer.

(4) ORDERING RULE.—If any loan is discharged, in whole or in part, and only a portion of such loan is qualified principal residence indebtedness, subsection (a)(1)(E) shall apply only to so much of the amount discharged as exceeds the amount of the loan (as determined immediately before such discharge) which is not qualified principal residence indebtedness.

(5) PRINCIPAL RESIDENCE.—For purposes of this subsection, the term "principal residence" has the same meaning as when used in section 121.

(i) DEFERRAL AND RATABLE INCLUSION OF INCOME ARISING FROM BUSINESS INDEBTEDNESS DISCHARGED BY THE REACQUISITION OF A DEBT INSTRUMENT.—

(1) IN GENERAL.—At the election of the taxpayer, income from the discharge of indebtedness in connection with the reacquisition after December 31, 2008, and before January 1, 2011, of an applicable debt instrument shall be includible in gross income ratably over the 5-taxable-year period beginning with—

(A) in the case of a reacquisition occurring in 2009, the fifth taxable year following the taxable year in which the reacquisition occurs, and

(B) in the case of a reacquisition occurring in 2010, the fourth taxable year following the taxable year in which the reacquisition occurs.

(2) DEFERRAL OF DEDUCTION FOR ORIGINAL ISSUE DISCOUNT IN DEBT FOR DEBT EXCHANGES.—

(A) IN GENERAL.—If, as part of a reacquisition to which paragraph (1) applies, any debt instrument is issued for the applicable debt instrument being reacquired (or is treated as so issued under subsection (e)(4) and the regulations thereunder) and there is any original issue discount determined under subpart A of part V of subchapter P of this chapter with respect to the debt instrument so issued—

(i) except as provided in clause (ii), no deduction otherwise allowable under this chapter shall be allowed to the issuer of such debt instrument with respect to the portion of such original issue discount which—

(I) accrues before the 1st taxable year in the 5-taxable-year period in which income from the discharge of indebtedness attributable to the reacquisition of the debt instrument is includible under paragraph (1), and

(II) does not exceed the income from the discharge of indebtedness with respect to the debt instrument being reacquired, and

(ii) the aggregate amount of deductions disallowed under clause (i) shall be allowed as a deduction ratably over the 5-taxable-year period described in clause (i)(I).

If the amount of the original issue discount accruing before such 1st taxable year exceeds the income from the discharge of indebtedness with respect to the applicable debt instrument being reacquired, the deductions shall be disallowed in the order in which the original issue discount is accrued.

(B) DEEMED DEBT FOR DEBT EXCHANGES.—For purposes of subparagraph (A), if any debt instrument is issued by an issuer and the proceeds of such debt instrument are used directly or indirectly by the issuer to reacquire an applicable debt instrument of the issuer, the debt instrument so issued shall be treated as issued for the debt instrument being reacquired. If only a portion of the proceeds from a debt instrument are so used, the rules of subparagraph (A) shall apply to the portion of any original issue discount on the newly issued debt instrument which is equal to the portion of the proceeds from such instrument used to reacquire the outstanding instrument.

(3) APPLICABLE DEBT INSTRUMENT.—For purposes of this subsection—

(A) APPLICABLE DEBT INSTRUMENT.—The term "applicable debt instrument" means any debt instrument which was issued by—

(i) a C corporation, or

(ii) any other person in connection with the conduct of a trade or business by such person.

(B) DEBT INSTRUMENT.—The term "debt instrument" means a bond, debenture, note, certificate, or any other instrument or contractual arrangement constituting indebtedness (within the meaning of section 1275(a)(1)).

(4) REACQUISITION.—For purposes of this subsection—

(A) IN GENERAL.—The term "reacquisition" means, with respect to any applicable debt instrument, any acquisition of the debt instrument by—

(i) the debtor which issued (or is otherwise the obligor under) the debt instrument, or

(ii) a related person to such debtor.

(B) ACQUISITION.—The term "acquisition" shall, with respect to any applicable debt instrument, include an acquisition of the debt instrument for cash, the exchange of the debt instrument for another debt instrument (including an exchange resulting from a modification of the debt instrument), the exchange of the debt instrument for corporate stock or a partnership interest, and the contribution of the debt instrument to capital. Such term shall also include the complete forgiveness of the indebtedness by the holder of the debt instrument.

(5) OTHER DEFINITIONS AND RULES.—For purposes of this subsection—

(A) RELATED PERSON.—The determination of whether a person is related to another person shall be made in the same manner as under subsection (e)(4).

(B) ELECTION.—

(i) IN GENERAL.—An election under this subsection with respect to any applicable debt instrument shall be made by including with the return of tax imposed by chapter 1 for the taxable year in which the reacquisition of the debt instrument occurs a statement which—

(I) clearly identifies such instrument, and

(II) includes the amount of income to which paragraph (1) applies and such other information as the Secretary may prescribe.

(ii) ELECTION IRREVOCABLE.—Such election, once made, is irrevocable.

(iii) PASS-THRU ENTITIES.—In the case of a partnership, S corporation, or other pass-thru entity, the election under this subsection shall be made by the partnership, the S corporation, or other entity involved.

(C) COORDINATION WITH OTHER EXCLUSIONS.—If a taxpayer elects to have this subsection apply to an applicable debt instrument, subparagraphs (A), (B), (C), and (D) of subsection (a)(1) shall not apply to the income from the discharge of such indebtedness for the taxable year of the election or any subsequent taxable year.

(D) ACCELERATION OF DEFERRED ITEMS.—

(i) IN GENERAL.—In the case of the death of the taxpayer, the liquidation or sale of substantially all the assets of the taxpayer (including in a title 11 or similar case), the cessation of business by the taxpayer, or similar circumstances, any item of income or deduc-

tion which is deferred under this subsection (and has not previously been taken into account) shall be taken into account in the taxable year in which such event occurs (or in the case of a title 11 or similar case, the day before the petition is filed).

(ii) SPECIAL RULE FOR PASS-THRU ENTITIES.—The rule of clause (i) shall also apply in the case of the sale or exchange or redemption of an interest in a partnership, S corporation, or other pass-thru entity by a partner, shareholder, or other person holding an ownership interest in such entity.

(6) SPECIAL RULE FOR PARTNERSHIPS.—In the case of a partnership, any income deferred under this subsection shall be allocated to the partners in the partnership immediately before the discharge in the manner such amounts would have been included in the distributive shares of such partners under section 704 if such income were recognized at such time. Any decrease in a partner's share of partnership liabilities as a result of such discharge shall not be taken into account for purposes of section 752 at the time of the discharge to the extent it would cause the partner to recognize gain under section 731. Any decrease in partnership liabilities deferred under the preceding sentence shall be taken into account by such partner at the same time, and to the extent remaining in the same amount, as income deferred under this subsection is recognized.

(7) SECRETARIAL AUTHORITY.—The Secretary may prescribe such regulations, rules, or other guidance as may be necessary or appropriate for purposes of applying this subsection, including—

(A) extending the application of the rules of paragraph (5)(D) to other circumstances where appropriate,

(B) requiring reporting of the election (and such other information as the Secretary may require) on returns of tax for subsequent taxable years, and

(C) rules for the application of this subsection to partnerships, S corporations, and other pass-thru entities, including for the allocation of deferred deductions.

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MINORITY VIEWS

H.R. 4545 attempts to finish what the Democrats didn't get done in 2010 when they nationalized the student loan program. This bill is another effort to do away with the private student loan market. It targets the terms and conditions of contracts negotiated by private student lenders and borrowers and throws them out the window—substituting Congress' wisdom for that of private parties.

H.R. 4545, the *Private Loan Disability Discharge Act of 2019*, would rewrite existing contracts regardless of the terms and conditions negotiated by the parties. H.R. 4545 would automatically require lenders to discharge student loan debt in the event borrowers become totally and permanently disabled.

In 2010, the Democrats nationalized the student loan program. Since then, Democrats have been focused on crowding out the few remaining private student lenders. The current practice in the private loan industry already allows a student borrower who becomes totally and permanently disabled to seek discharge of a student loan debt if a physician certifies the disability.

Furthermore, in a competitive market, student loan borrowers are free to choose between lenders who observe similar practices and those who do not. Private lenders and borrowers are best positioned to weigh the trade-offs of their decisions. If enacted, H.R. 4545 will increase compliance costs for lenders, diminish the market value of existing loans, and have the downstream effect of making credit more expensive for student borrowers.

Democrats are unhappy that the private student loan industry is thriving. The private student loan industry experiences a lower rate of default than the federal loan system at 2.4 percent compared to 18 percent respectively.

Rep. Ann Wagner (R–MO) offered an amendment to H.R. 4545 that preserves the ability of private student loan lenders to offer competitive terms and conditions that would not disrupt existing agreements. Specifically, the amendment would allow the estate of a deceased or permanently disabled student loan borrower to request a discharge of the student loan debt, as opposed to requiring that all contracts include such a term. Democrats rejected the amendment on a party line vote of 32–25.

H.R. 4545 will not make the cost of student borrowing cheaper. It does not address the underlying student loan debt crisis. It will not make a college education cheaper to pursue.

Rather this bill is another deliberate effort to limit the availability of private sector lending. It is another targeted effort by Democrats to substitute the wisdom of the private sector with that of Congress. Finally, it is another deliberate effort to increase the cost of lending in the private student loan industry program. This bill is an overt political attempt to fix a problem that doesn't exist.

For these reasons, Committee Republicans oppose H.R. 4545.

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