

PROVIDING FOR CONGRESSIONAL DISAPPROVAL UNDER CHAPTER 8 OF TITLE 5, UNITED STATES CODE, OF THE RULE SUBMITTED BY THE DEPARTMENT OF EDUCATION RELATING TO “WAIVERS AND MODIFICATIONS OF FEDERAL STUDENT LOANS”

MAY 18, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Ms. FOXX, from the Committee on Education and the Workforce, submitted the following

## R E P O R T

together with

## MINORITY VIEWS

[To accompany H.J. Res. 45]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and the Workforce, to whom was referred the joint resolution (H.J. Res. 45) providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Education relating to “Waivers and Modifications of Federal Student Loans”, having considered the same, reports favorably thereon without amendment and recommends that the joint resolution do pass.

### PURPOSE

The purpose of H.J. Res 45 is to disapprove of the rule related to “Waivers and Modifications of Federal Student Loans,” which was first announced on August 24, 2022, and published in the Federal Register on October 12, 2022.

### COMMITTEE ACTION

117TH CONGRESS

### *First Session—Hearings*

On April 28, 2021, the Committee on Education and the Workforce held a hearing on “Building Back Better: Investing in Improving Schools, Creating Jobs, and Strengthening Families and our Economy.” The purpose of the hearing was to examine the Biden

administration's *American Jobs Plan and American Families Plan*, which included discussions about the federal student loan program and its impact on college affordability. Testifying before the Committee were Dr. Neal McCluskey, Director, Center for Educational Freedom, CATO Institute, Washington, D.C.; Mr. Brian Riedl, Senior Fellow, Manhattan Institute, Washington, D.C.; Mr. Mark Mitsui, President, Portland Community College, Portland, Oregon; Mr. Rasheed Malik, Senior Policy Analyst, Early Childhood Policy, Center for American Progress, Washington, D.C.; Ms. Mary Filardo, Founder and Executive Director, 21st Century School Fund, Washington, D.C.

On September 30, 2021, the Committee's Higher Education and Workforce Investment Subcommittee held a hearing on "Protecting Students and Taxpayers: Improving the Closed School Discharge Process." The purpose of the hearing was to learn about improvements to the process for discharging loans for federal student loan borrowers whose school abruptly closes. Testifying before the subcommittee was Ms. Robyn Smith, Senior Attorney, Legal Aid Foundation of Los Angeles, Los Angeles, CA; Ms. Melissa Emrey-Arras, Director of Education, Workforce and Income Security, Governmental Accountability Office, Washington, D.C.; Mr. Preston Cooper, Research Fellow, Foundation for Research on Equal Opportunity, Washington D.C.; Ms. Karyn Rhodes, Student Borrower, American Business Institute, Torrance, CA.

On October 26, 2021, the Committee's Higher Education and Workforce Investment Subcommittee held a hearing on "Examining the Policies and Priorities of the Office of Federal Student Aid." The purpose of the hearing was to hear from the Chief Operating Officer of Federal Student Aid about the policies and priorities of the agency. Testimony was received regarding student loan debt forgiveness and pauses to borrowers' obligations to pay their debt. Testifying before the committee was Mr. Richard Cordray, Chief Operating Officer, Office of Federal Student Aid, Washington, D.C.

On November 17, 2021, the Committee's Joint Subcommittee on Early Childhood, Elementary and Secondary Education (ECESE) held a hearing on "Examining the Implementation of COVID-19 Education Funds." The purpose of the hearing was to conduct oversight of the Education Stabilization Fund (ESF), though oversight of the administration's actions related to the federal student loan program were discussed. Testifying before the subcommittee were The Honorable Cindy Marten, Deputy Secretary, U.S. Department of Education, Washington, D.C.; The Honorable James Kvaal, Under Secretary, U.S. Department of Education, Washington, D.C.

#### *Second Session—Hearings*

On May 26, 2022, the Committee on Education and the Workforce held a hearing on "Examining the Policies and Priorities of the U.S. Department of Education." The purpose of the hearing was to review the Fiscal Year 2023 budget priorities of the U.S. Department of Education. Testifying before the Committee was The Honorable Miguel Cardona, Secretary, U.S. Department of Education, Washington, D.C.

On July 19, 2022, the Committee's Higher Education and Workforce Investment Subcommittee held a hearing on "The History and continued Contributions of Tribal Colleges and Universities." Testi-

mony was received regarding student loan debt forgiveness and solutions to improve the federal student loan program. Testifying before the Committee was Dr. Sandra Boham, President, Salish Kootenai College, Pablo, MT; Ms. Carrie Billy, President and CEO, American Indian Higher Education Consortium, Alexandria, VA; Dr. Beth Akers, Senior Fellow, American Enterprise Institute, Washington D.C.; and Dr. Cynthia Lindquist, President, Cankdeska Cikana Community College, Fort Totten, ND.

#### 118TH CONGRESS

##### *First Session—Hearings*

On February 8, 2023, the Committee on Education and the Workforce held a hearing on “American Education in Crisis.” The purpose of the hearing was to examine the state of education, including higher education and the status of pauses in federal student loan programs, in the United States. Testifying before the Committee were Ms. Virginia Gentles, Director, Education Freedom Center, Independent Women’s Forum, Arlington, VA; Dr. Monty Sullivan, President, Louisiana Community and Technical College System, Baton Rouge, LA; The Honorable Jared Polis, Governor, State of Colorado, Denver, CO; Mr. Scott Pulsipher, President, Western Governors University, Salt Lake City, UT.

On March 23, 2023, the Committee’s Higher Education and Workforce Development subcommittee held a hearing on “Breaking the System: Examining the Implications of Biden’s Student Loan Policies for Student’s and Taxpayers.” The purpose of the hearing was to discuss with policy experts the harms of the Biden administration’s loan cancellation policies for students, taxpayers, and the economy. Testifying before the subcommittee were Mr. Marc Goldwein, Senior Vice President and Senior Policy Director, Committee for a Responsible Federal Budget, Washington, D.C.; Dr. Adam Looney, Director, Marriner S. Eccles Institute for Economics and Quantitative Analysis, University of Utah, Salt Lake City, UT; Mr. Sameer Gadkaree, President, the Institute for College Access & Success, Los Angeles, California; Dr. Carlo Salerno, Economist and Financial Aid Expert, Los Angeles, CA.

##### *Legislative Action*

On March 27, 2023, Rep. Bob Good (R–VA) introduced H.J. Res. 45, *Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Education relating to “Waivers and Modifications of Federal Student Loans”* with Reps. Foxx (R–NC), Wilson (R–SC), Walberg (R–MI), Grothman (R–WI), Stefanik (R–NY), Allen (R–GA), Banks (R–IN), Smucker (R–PA), Owens (R–UT), McClain (R–MI), Miller (R–IL), Letlow (R–LA), Bean (R–FL), Burlinson (R–MO), Houchin (R–IN), Crenshaw (R–TX), Duncan (R–SC), Edwards (R–NC), Ezell (R–MS), Gimenez (R–FL), Norman (R–SC), Hageman (R–WY), Lamborn (R–CO), Hern (R–OK), Rutherford (R–FL), Scott (R–GA), Mann (R–KS), Murphy (R–NC), Miller-Meeks (R–LA), Pfluger (R–TX), Calvert (R–CA), Ferguson (R–GA), Smith (R–MO), Donalds (R–FL), Perry (R–PA), Posey (R–FL), Arrington (R–TX), Spartz (R–IN), Guest (R–MS), Granger (R–TX), Biggs (R–AZ) as original cosponsors. The bill was referred solely to the Committee on Edu-

cation and the Workforce. On May 10, 2023, the Committee considered H.J. Res. 45 in legislative session and reported it favorably to the House of Representatives by a recorded vote of 24–18.

#### COMMITTEE VIEWS

##### INTRODUCTION

Since taking office, the Biden administration has attempted to ram its radical free college agenda through the backdoor by transferring hundreds of billions of dollars in federal student loan debt to taxpayers.<sup>1</sup> Through radical expansions of generous forgiveness programs, expansive new regulations, and the continuation of the now three-year pause in repayment, taxpayers may ultimately spend nearly \$1 trillion discharging loans since the repayment moratorium first began in March 2020.<sup>2</sup>

On March 17, 2023, the Government Accountability Office (GAO) concluded that the Department’s Waivers and Modifications meet the definition of a rule under the *Congressional Review Act* (CRA). The CRA provides Congress with a mechanism to review federal agency actions that meet the law’s definition of “rule.” Enacted in 1996 as part of the *Small Business Regulatory Enforcement Fairness Act*, the CRA requires agencies to report the issuance of “rules” to Congress and provides Congress with special fast-track procedures under which to consider legislation that overturns a rule. A joint resolution of disapproval will become effective once both houses of Congress pass a joint resolution and once it is signed by the President or the President’s veto is overridden. Thus, the GAO determined that the Department’s Waivers and Modifications are subject to the requirement that they be submitted to Congress as required under the law.

In response, Rep. Bob Good (R–VA.) and Senate Health, Education, Labor, and Pensions Committee Ranking Member Bill Cassidy (R–LA.) introduced H.J. Res. 45 on March 27. The joint resolution will overturn President Biden’s Debt Relief Plan and prevent any further extension of the pause on federal student loan repayment. H.J. Res. 45 takes an important first step towards stopping the Biden administration’s student loan scam by barring the discharge of up to \$20,000 in federal student loans for borrowers making up to \$125,000 (\$250,000 for married couples) and preventing any further extension of the repayment pause. These Biden administration actions, first announced on August 24, 2022,<sup>3</sup> would ultimately cost taxpayers \$315.6 billion and would have unprecedented repercussions for students and taxpayers if implemented.<sup>4</sup>

##### BAD FOR STUDENTS

Tuition and fees have increased nearly three times the rate of inflation over the last two decades,<sup>5</sup> largely because of generous subsidies provided by taxpayers in the form of grants and loans to help households pay for their degree programs. Indeed, ample evidence exists that when taxpayers increasingly foot the bill, colleges cap-

<sup>1</sup> <https://www.aei.org/studentdebtforgivenesstracker/>

<sup>2</sup> [https://edworkforce.house.gov/uploadedfiles/3.23.23\\_goldwein\\_testimony.pdf](https://edworkforce.house.gov/uploadedfiles/3.23.23_goldwein_testimony.pdf)

<sup>3</sup> <https://www.whitehouse.gov/briefing-room/statements-releases/2022/-biden-announces-student-loan-relief-for-borrowers-who-need-it-most/>

<sup>4</sup> <https://www.cbo.gov/publication/59102>

<sup>5</sup> <https://www.aei.org/carpe-diem/chart-of-the-day-or-century-8/>

ture more and more in the form of higher prices. For instance, in 2017, economists at the Federal Reserve of New York found that for every increase in subsidized student loans, tuition increased by 60 cents;<sup>6</sup> a recent 2023 study also found that increased availability of generous graduate loans raised students' cost of attendance dollar for dollar.<sup>7</sup> Moreover, studies have shown that colleges reduce their own grant aid by as much as 83 cents for each dollar students receive in federal student aid.<sup>8</sup>

#### *Exacerbates Root Causes of Student Debt*

This evidence suggests that broad-based debt cancellation will lead to substantial increases in college prices for prospective students, resulting in additional and excessive borrowing, including by those who would never have taken out student loans in the first place. Indeed, even if the President's debt transfer plan goes through, outstanding federal student loan debt would return to its current level of \$1.6 trillion in just five and a half years.<sup>9</sup>

The repayment pause also continues to sow confusion and chaos among borrowers who have had almost zero contact with their servicers since the pause began. Time and time again the Biden administration has extended the now three-year long moratorium on federal student loan repayments for what it said was the "final" time. And every time borrowers were forced to readjust and prepare their finances only for the Department to change its mind. Such uncertainty is exacerbated by false claims that H.J. Res. 45 would force borrowers to make payments on their loans during the months in which the payment pause was in effect; while the resolution critically ends the repayment pause, in addition preventing the President's bailout from moving forward, it does nothing to direct the Department to force payments that were otherwise not required or to take away borrower's progress towards income-driven repayment or public service loan forgiveness. Nonetheless, these false claims are an example of the unnecessary and avoidable confusion caused by the Department's actions: they make it nearly impossible for students to budget effectively when people most need to do so, as reckless Democrat complicates taxpayers' lives harder each month that the repayment pause continues.

#### BAD FOR TAXPAYERS

Since March 2020, most federal student loan borrowers have not had to pay a single penny on their student loans at a cost to taxpayers of \$5 billion each month that the repayment pause continues (that is \$200 billion to date).<sup>10</sup> The repayment pause is exacerbating Biden's inflation crisis caused by his party's reckless spending spree. According to the Committee for a Responsible Federal Budget (CRFB), the latest extension of the repayment pause increased inflation by 20 basis points;<sup>11</sup> Biden's student loan bailout could increase inflation by an additional 27 basis points if it

<sup>6</sup> [https://www.newyorkfed.org/research/staff\\_reports/sr733.html](https://www.newyorkfed.org/research/staff_reports/sr733.html)

<sup>7</sup> [https://lesleyjturner.com/GradPLUS\\_Feb2023.pdf](https://lesleyjturner.com/GradPLUS_Feb2023.pdf)

<sup>8</sup> <https://www.mercatus.org/research/policy-briefs/reevaluating-effects-federal-financing-higher-education>

<sup>9</sup> [https://edworkforce.house.gov/uploadedfiles/3.23.23\\_goldwein\\_testimony.pdf](https://edworkforce.house.gov/uploadedfiles/3.23.23_goldwein_testimony.pdf)

<sup>10</sup> *Ibid.*

<sup>11</sup> <https://www.crfb.org/blogs/extending-student-loan-payment-pause-bad-policy>

goes forward.<sup>12</sup> Thus, Biden’s bailout isn’t even benefitting borrowers in the short term. To make matters worse, loan forgiveness of white collar workers is making it harder for blue collar workers to put food on their table and gas in their cars—both in the present and in the future. Moreover, coupled with his income-driven repayment plan, Biden’s student loan scams could cost as much as \$3,527 per taxpayer.<sup>13</sup>

#### *Untargeted Benefits*

Moreover, the unemployment rate is at a near 50-year low, at just 2 percent for college graduates. Indeed, Biden’s student loan bailout benefit is untargeted and disproportionately benefits higher-income Americans and those who borrowed for graduate school. Two-thirds of Biden’s bailout would go to the top half of earners.<sup>14</sup> Among federal student loan borrowers leaving school in 2024, 70 percent of debt will be owed by students who went to graduate school, and 39 percent of the total will be owed by graduate students expected to earn more than \$100,000 annually during their careers.<sup>15</sup>

#### *Exacerbates our Nation’s Fiscal Crisis*

The federal government currently spends as much on interest payments on the debt as it does on many of our safety net programs combined.<sup>16</sup> At a price tag of \$315 billion, the administration’s student loan bailout will reduce economic growth and saddle future generations with unsustainable debt; it is the last thing we need on our nation’s credit card. Money cannot be printed out of thin air without any consequences, despite what the administration’s actions seem to suggest. Biden’s actions will make the student loan program even more expensive for taxpayers by setting the precedent that loans do not need to be repaid. Future borrowers will take on debt expecting forgiveness, causing the student loan program to only increase in costs for future generations. Moreover, inflationary spending puts more pressure on the Federal Reserve to raise interest rates, which disrupts the financial, housing, and labor markets and risks pushing the economy into a recession.

#### CONCLUSION

President Biden’s student loan scam is illegal, unfair, and immoral. There is no such thing as debt “forgiveness.” President Biden is simply transferring the debt from borrowers who willingly took out student loans to hardworking taxpayers who did not. This is no insignificant portion of the population: in fact, eighty-seven percent of Americans did not take out loans.<sup>17</sup> This number includes those who did not go to college, who worked to avoid loans, or who had the grit to pay their loans back. In total, the President’s illegal student loan schemes could cost taxpayers nearly \$1 trillion dollars—that’s more than the federal government has spent

<sup>12</sup> <https://www.crfb.org/blogs/student-debt-changes-would-boost-inflation>

<sup>13</sup> <https://www.ntu.org/publications/detail/ntu-supports-resolution-to-stop-president-bidens-unilateral-student-debt-plan>

<sup>14</sup> <https://www.crfb.org/blogs/bidens-student-debt-cancellation-plan-still-regressive>

<sup>15</sup> <https://www.regulations.gov/document/ED-2023-OPE-0004-0001v>

<sup>16</sup> <https://www.crfb.org/blogs/net-interest-payments-topped-475-billion-fy-2022>

<sup>17</sup> <https://www.rpc.senate.gov/policy-papers/student-loan-forgiveness-a-handout-for-the-rich>

on postsecondary education in our entire history.<sup>18</sup> H.J. Res. 45 is a critical first step to stopping the President’s reckless “free” college agenda by barring \$315 billion in taxpayer funds from being transferred from those who willingly took out student loans to those who did not.

#### SECTION-BY-SECTION ANALYSIS

H.J. Resolution 45 resolves that Congress disapproves of the rule related to “Waivers and Modifications of Federal Student Loans,” which was first announced on August 24, 2022, and was published in the Federal Register on October 12, 2022.

#### EXPLANATION OF AMENDMENTS

No amendments were proposed, considered, or adopted.

#### APPLICATION OF LAW TO THE LEGISLATIVE BRANCH

Section 102(b)(3) of Public Law 104–1 requires a description of the application of this bill to the legislative branch. H.J. Res. 45 takes an important step towards reigning in executive overreach and preventing the Department of Education from unilaterally transferring federal student loan debt to taxpayers.

#### UNFUNDED MANDATE STATEMENT

Section 423 of the Congressional Budget and Impoundment Control Act (as amended by Section 101(a)(2) of the Unfunded Mandates Reform Act, P.L. 104–4) requires a statement of whether the provisions of the reported bill include unfunded mandates. This issue is addressed in the CBO letter.

#### EARMARK STATEMENT

H.J. Res. 45 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of House rule XXI.

#### ROLL CALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee Report to include for each record vote on a motion to report the measure or matter and on any amendments offered to the measure or matter the total number of votes for and against and the names of the Members voting for and against.

<sup>18</sup> [https://edworkforce.house.gov/uploadedfiles/3.23.23\\_goldwein\\_testimony.pdf](https://edworkforce.house.gov/uploadedfiles/3.23.23_goldwein_testimony.pdf)

Date: 5-10-2023

**COMMITTEE ON EDUCATION AND LABOR RECORD OF COMMITTEE VOTE**

Roll Call: 1

Bill: H.J.Res 45

Amendment Number:

Disposition: Adopted by Full Committee Roll Call Vote

Sponsor/Amendment: Good Motion to report H.J.Res 45 to the House do pass

Name & State	Aye	No	Not Voting	Name & State	Aye	No	Not Voting
Mrs. FOXX (NC) (Chairwoman)	X			Mr. SCOTT (VA) (Ranking)		X	
Mr. WILSON (SC)	X			Mr. GRIJALVA (AZ)		X	
Mr. THOMPSON (PA)	X			Mr. COURNTEY (CT)		X	
Mr. WALBERG (MI)	X			Mr. SABLAN (MP)		X	
Mr. GROTHMAN (WI)	X			Ms. WILSON (FL)		X	
Ms. STEFANK (NY)			X	Ms. BONAMICI (OR)		X	
Mr. ALLEN (GA)	X			Mr. TAKANO (CA)		X	
Mr. BANKS (IN)	X			Ms. ADAMS (NC)		X	
Mr. COMER (KY)	X			Mr. DESAULNIER (CA)		X	
Mr. SMUCKER (PA)	X			Mr. NORCROSS (NJ)		X	
Mr. OWENS (UT)	X			Ms. JAYAPAL (WA)		X	
Mr. GOOD (VA)	X			Ms. WILD (PA)			X
Mrs. MCCLAIN (MI)	X			Ms. MCBATH (GA)		X	
Mrs. MILLER (IL)	X			Mrs. HAYES (CT)		X	
Mrs. STEEL (CA)	X			Ms. OMAR (MN)		X	
Mr. ESTES (KS)	X			Ms. STEVENS (MI)		X	
Ms. LETLOW (LA)	X			Ms. LEGER FERNÁNDEZ (NM)		X	
Mr. KILEY (CA)	X			Ms. MANNING (NC)		X	
Mr. BEAN (FL)	X			Mr. MRVAN (IN)		X	
Mr. BURLISON (MO)	X			Mr. BOWMAN (NY)			X
Mr. MORAN (TX)	X						
Mr. JAMES (MI)	X						
Ms. CHAVEZ-DEREMER (OR)	X						
Mr. WILLIAMS (NY)	X						
Ms. HOUCHIN (IN)	X						

TOTALS: Ayes: 24

Nos: 18

Not Voting: 3

Total: 45 / Quorum: / Report:

(25 R - 20 D)

\*Although not present for the recorded vote, Member expressed he/she would have voted AYE if present at time of vote.

\*Although not present for the recorded vote, Member expressed he/she would have voted NO if present at time of vote.



## STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

In accordance with clause (3)(c) of House rule XIII, the goal of H.J. Res. 45 is to disapprove of the rule submitted by the Department of Education relating to “Waivers and Modifications of Federal Student Loans” (including the website announcement entitled “One-Time Federal Student Loans,”) announced on August 24, 2022 and published in the federal registrar on October 12, 2022 to protect the interests of student loan borrowers who paid their debts, those without college attendance who would be forced to pay for debts incurred by others, and the Federal government.

## DUPLICATION OF FEDERAL PROGRAMS

No provision of H.J. Res. 45 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.

## 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 body of this report.

## REQUIRED COMMITTEE HEARING AND RELATED HEARINGS

In compliance with clause 3(c)(6) of rule XIII the following hearings held during the 118th Congress were used to develop or consider H.J. Res. 45: “Breaking the System: Examining the Implications of Biden’s Student Loan Policies for Student’s and Taxpayers (2023)”.

The following related hearings were held: “Building Back Better: Investing in Improving Schools, Creating Jobs, and Strengthening Families and our Economy (2021),” “Protecting Students and Taxpayers: Improving the Closed School Discharge Process (2021),” “Examining the Policies and Priorities of the Office of Federal Student Aid (2021),” “Examining the Implementation of COVID–19 Education Funds (2021),” “Examining the Policies and Priorities of the U.S. Department of Education (2022),” “The History and continued Contributions of Tribal Colleges and Universities (2022),” and “American Education in Crisis (2023)”.

## NEW BUDGET AUTHORITY AND CBO COST ESTIMATE

With respect to the requirements of 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 with respect to requirements of 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.J. Res. 45 from the Director of the Congressional Budget Office:

<b>At a Glance</b>			
<b>H.J. Res. 45, a joint resolution providing for Congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Education relating to "Waivers and Modifications of Federal Student Loans"</b>			
<b>As ordered reported by the House Committee on Education and the Workforce on May 10, 2023</b>			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	-319,570	-317,635	-315,610
Revenues	0	0	0
Decrease (-) in the Deficit	-319,570	-317,635	-315,610
Spending Subject to Appropriation (Outlays)	not estimated	not estimated	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	> \$2.5 billion	Statutory pay-as-you-go procedures apply?	Yes
		<b>Mandate Effects</b>	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No

Resolution summary: H.J. Res. 45 would disapprove the rule relating to "Waivers and Modifications of Federal Student Loans," issued by the Department of Education and published in the *Federal Register* on October 12, 2022. The resolution would invoke a legislative process established by the Congressional Review Act, which would repeal the rule and prohibit the department from issuing the same or similar rules in the future.

The October rule made final an announcement made on August 24, 2022, which extended the pause for payments, interest accrual, and collections of student loans from September 1, 2022, to December 31, 2022, and created a onetime loan cancellation program. Under that program, borrowers whose income fell below specified limits would be eligible for cancellation of up to \$10,000 of student loan debt issued on or before June 30, 2022. Borrowers who also had received at least one Pell grant would be eligible for cancellation of an additional \$10,000 in such debt.

Estimated Federal cost: The costs of the legislation, detailed in Table 1, fall within budget function 500 (education, training, employment, and social services).

Table 1.—Estimated Budgetary Effects of H.J. Res. 45

	By Fiscal Year, Millions of Dollars														
	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2023-2028	2023-2033		
						Increases or Decreases ( - ) in Direct Spending									
Estimated Budget Authority .....	-319,550	380	385	390	395	400	400	405	410	410	410	-317,600	-315,565		
Estimated Outlays .....	-319,570	375	385	390	390	395	400	400	405	410	410	-317,635	-315,610		

CBO expects that if loan cancellation was repealed, the cost to administer the larger volume of loans in repayment would increase; any spending would be subject to the availability of appropriated funds.

Basis of estimate: For this estimate, CBO assumes that the resolution will be enacted in June 2023. As required under the Federal Credit Reform Act of 1990 (FCRA), most of the costs of the federal student loan program are estimated on a net-present-value basis. A present value is a single number that expresses a flow of current and future payments in terms of an equivalent lump sum received or paid today. Under FCRA, the present value of all loan-related cash flows is calculated by discounting those expected cash flows to the year of disbursement, using the rates for comparable maturities on Treasury borrowing. For changes to the cost of outstanding loans, the estimated costs or savings are shown in the year in which the legislation making those changes is enacted. The cost of the federal government's administration of student loans is estimated on a cash basis.

Direct spending: CBO estimates that enacting H.J. Res. 45 would reduce direct spending, on a net-present-value basis, by \$319.6 billion in 2023, and by \$315.6 billion over the 2023–2033 period.

Loan Cancellation. Under current law, CBO expects that borrowers whose outstanding debt is canceled will pay less in principal and interest than they would if that policy was repealed. The estimated savings is the present value of the borrowers' projected payments of principal and interest on student loans before accounting for the repeal of that policy, minus the present value of payments after doing so. Under both scenarios, the present value is calculated by discounting the payments the government receives, using methods specified in FCRA.

CBO estimates that the net-present-value of the increase in future cash inflows from borrowers—if the Administration's loan cancellation plan was repealed—would total \$320 billion, thus reducing direct spending in 2023. The loan cancellation policy's implementation has been suspended while the Supreme Court reviews the plan. CBO's estimate will be updated after a decision is released.

On January 11, 2023, the Department of Education published a proposed rule in the *Federal Register* to create a new income-driven repayment (IDR) plan for federal student loans. Following CBO's long-standing convention for incorporating the effects of proposed rules into its baseline, the baseline reflects 50 percent of the estimated costs of the proposed IDR plan. CBO has reduced its estimate of loan cancellation to reflect the additional forgiveness of existing loan balances that are set to occur under the proposed IDR plan. Once the Department of Education publishes the final rule, the baseline will incorporate 100 percent of the estimated cost of the new plan and CBO will update its estimate of loan cancellation to reflect that change.

Payment Pause. CBO's baseline incorporates the assumption that the current pause on payments, interest accrual, and collections will end on August 30, 2023. CBO does not expect that enacting H.J. Res. 45 would affect the current pause because it does not expect that repayments could be restarted before that date. Enacting the resolution would prevent the department from extending the pause beyond August. However, because the baseline does not incorporate an assumption that the pause will be extended, CBO estimates that the provision would have no effect on direct spending.

**Administrative Costs.** Some costs for the administration of student loans, such as payments to agencies that collect defaulted loans, are classified in the budget as direct spending and shown on a cash, rather than accrual, basis. Repealing the Administration's proposed loan cancellation would result in higher loan volume from more borrowers, and thus, additional administrative costs. If debt cancellation were repealed, CBO estimates, roughly 16 million borrowers whose full debts would otherwise be cancelled, would still have remaining balances. CBO estimates that enacting H.J. Res. 45 would increase direct spending for administrative costs by about \$4 billion over the 2023–2033 period.

**Spending subject to appropriation:** Additional funding to administer the student loan program is provided each year in appropriation acts. In fiscal year 2023, the Congress appropriated \$2.0 billion for student aid administration, which is used to administer student loans and other student aid programs. CBO expects that if loan cancellation was repealed, the cost to administer the larger volume of loans in repayment would increase; any spending would be subject to the availability of appropriated funds.

**Uncertainty:** Although CBO aims to develop estimates of budgetary effects of legislation that are in the middle of the distribution of potential outcomes, the estimates of the effects of student loan cancellation are highly uncertain. In particular, significant uncertainty surrounds CBO's projections of how much borrowers will repay after the cancellation of their debt and how much they would repay if that policy was repealed.

**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 net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 1.

**Increase in long-term net direct spending:** CBO estimates that enacting H.J. Res. 45 would increase net direct spending by more than \$2.5 billion in at least one of the four consecutive 10-year periods beginning in 2034.

CBO estimates that enacting H.J. Res. 45 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2034.

**Mandates:** None.

**Previous CBO estimates:** On April 25, 2023, CBO published a letter detailing the estimated budgetary effects of H.R. 2811, the Limit, Save, Grow Act of 2023, as posted on the website of the House Committee on Rules on April 19, 2023. Subsections 1 and 2 of section 211(a) of that bill are similar to H.J. Res. 45 and CBO's estimates are the same for both pieces of legislation.

In September 2022, CBO published a letter about the costs of suspending student loan payments and canceling debt. In that letter, CBO estimated the total cost of cancellation at about \$400 billion over the 2023–2033 period, on a net-present-value basis. CBO has since lowered its estimate to reflect additional administrative actions, including the proposed IDR plan and CBO's most recent economic forecast.

Estimate prepared by: Federal Costs: Leah Koestner, Mandates: Andrew Laughlin.

Estimate reviewed by: Justin Humphrey, Chief, Finance, Housing, and Education Cost Estimates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis.

Estimate approved by: Phillip L. Swagel, Director, Congressional Budget Office.

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.J. Res. 45. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when, as with the present report, 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.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

As reported by the Committee, H.J. Res. 45 makes no changes in existing law.

## MINORITY VIEWS

### INTRODUCTION

H.J. Res. 45, *Providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Department of Education relating to “Waivers and Modifications of Federal Student Loans,”* would nullify the Biden Administration’s One-time Federal Student Loan Debt Relief plan, the pause on federal student loan payments, and other crucial student loan program waivers and modifications from September 2022 to December 2022. If enacted, H.J. Res. 45 would sow chaos through the federal loan system at a crucial point in the program’s administration. Further, it would jeopardize the both the Biden administration and any future administration’s ability to respond appropriately during emergencies to support the economic well-being of students and borrowers.

### STUDENT LOAN WAIVERS AND MODIFICATIONS UNDER THE HEROES ACT AUTHORITY

#### *Student Loan Payment Pause*

The federal student loan payment pause was first implemented under the Trump Administration through the *CARES Act* in response to the pandemic and was extended two times under President Trump.<sup>1</sup> The Biden Administration subsequently extended the payment pause,<sup>2</sup> which is still in effect today. Both the Trump and Biden Administrations were authorized to extend the payment pause through the *Higher Education Relief Opportunities for Students (HEROES Act) Act of 2003*.<sup>3</sup> The *HEROES Act* authorizes the Secretary of Education (Secretary) to “waive or modify any statutory or regulatory provision acceptable to” the Title IV loan programs “as the Secretary deems necessary” to ensure individuals affected by a national emergency “are not placed in a worse position financially . . .”<sup>4</sup> Under the *HEROES Act*, the Secretary does not need to go through a rulemaking procedure to effectuate an action.<sup>5</sup>

#### *One-time Student Debt Relief*

In August 2022, the Biden Administration announced a plan to forgive up to \$10,000 of student loan debt for non-Pell Grant recipients and up to \$20,000 for Pell Grant recipients for individuals

<sup>1</sup>A week before the *CARES Act* became law, on March 20, 2020, the office of Federal Student Aid began suspension of loan payments, stopped collections on defaulted loans, and instituted a 0% interest rate, all using *HEROES Act* authority.

<sup>2</sup>Kevin M. Lewis & Edward C. Liu, Congr. Rsch. Serv., LSB10568, *The Biden Administration Extends the Pause on Federal Student Loan Payments: Legal Considerations for Congress*, 1 (2021), <https://crsreports.congress.gov/product/pdf/LSB/LSB10568>.

<sup>3</sup>*Id.* at 2.

<sup>4</sup>*Id.* at 4.

<sup>5</sup>*Id.* at 1.

earning up to \$125,000, married couples up to \$250,000; dependent undergraduate students may qualify based on their parents adjusted gross income.<sup>6</sup> Most federal loans disbursed on or before June 30, 2022 are eligible for forgiveness, with the exception of commercially-held Federal Family Education Loans (FFEL) and Perkins loans.<sup>7</sup> As part of the debt relief plan's rollout, the Administration released memos explaining the plan's legal justification, arguing that the debt relief plan, just like the payment pause, was legal use of existing authority under the HEROES Act.<sup>8</sup>

Under the plan, up to 43 million borrowers would be eligible for debt relief, with roughly 20 million eligible for full forgiveness of their outstanding loan balance.<sup>9</sup> Ninety percent of relief under the plan would benefit borrowers earning less than \$75,000 a year.<sup>10</sup> Currently, 26 million borrowers have either applied for or are already automatically eligible for debt relief, and over 16 million of these applications have already been approved. In marking up and favorably reporting H.J. Res. 45 to the House, Committee Republicans are attempting to block one-time debt relief to roughly 2,022,800 of their own constituents.<sup>11</sup>

Number of Borrowers in Committee Republican Districts Who Will Be Denied One-Time Debt Relief

Congressional District	Estimated Number of Borrowers Eligible for Student Debt Relief	Number of people who applied or were deemed automatically eligible for relief	Number of fully-approved applications sent to loan servicers for discharge
CA-03 .....	63,500	38,600	23,500
CA-39 .....	95,600	56,000	36,700
CA-45 .....	73,400	47,900	31,000
FL-04 .....	119,300	69,100	44,700
GA-12 .....	110,100	66,000	42,900
IL-15 .....	76,100	46,800	30,300
IN-03 .....	96,400	56,900	36,400
IN-09 .....	89,700	54,600	35,000
KS-04 .....	106,100	61,500	39,600
KY-01 .....	84,900	48,700	32,400
LA-05 .....	104,100	57,500	35,900
MI-05 .....	93,800	55,700	36,900
MI-09 .....	92,900	60,000	38,800
MI-10 .....	104,700	69,500	47,300
MO-07 .....	100,800	56,100	35,900
NC-05 .....	75,900	46,300	29,700

<sup>6</sup>The White House, Fact Sheet: President Biden Announces Student Loan Relief for Borrowers Who Need It Most (August 24, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/24/fact-sheet-president-biden-announces-student-loan-relief-for-borrowers-who-need-it-most/>.

<sup>7</sup>Federal Student Aid, One-time Federal Student Loan Debt Relief (Accessed May 16, 2023), <https://studentaid.gov/manage-loans/forgiveness-cancellation/debt-relief-info>; Cory Turner, *In a reversal, the Education Dept. is excluding many from student loan relief*, NPR (Updated September 30, 2022), <https://www.npr.org/2022/09/29/1125923528/biden-student-loans-debt-cancellation-ff-el-perkins>.

<sup>8</sup>Use of the HEROES Act of 2003 to Cancel the Principal Amounts of Student Loans, 46 Op. O.L.C. \_\_\_\_ (August 23, 2022), <https://www.justice.gov/olc/file/1528451/download>; Notice of Debt Cancellation Legal Memorandum, 87 Fed. Reg. 52943 (August 30, 2022) <https://www.federalregister.gov/documents/2022/08/30/2022-18731/notice-of-debt-cancellation-legal-memorandum>.

<sup>9</sup>The White House, Fact Sheet: President Biden Announces Student Loan Relief for Borrowers Who Need It Most (August 24, 2022), <https://www.whitehouse.gov/briefing-room/statements-releases/2022/08/24/fact-sheet-president-biden-announces-student-loan-relief-for-borrowers-who-need-it-most/>.

<sup>10</sup>*Id.*

<sup>11</sup>U.S. Dep't of Educ., Student Debt Relief Application Data by Congressional Jurisdiction, <https://www2.ed.gov/documents/coronavirus/congressional-district-debt-relief-data.xlsx>.



Number of Borrowers in Committee Republican Districts Who Will Be Denied One-Time Debt Relief—Continued

Congressional District	Estimated Number of Borrowers Eligible for Student Debt Relief	Number of people who applied or were deemed automatically eligible for relief	Number of fully-approved applications sent to loan servicers for discharge
NY-21 .....	96,900	59,300	37,700
NY-22 .....	115,400	75,200	48,200
OR-05 .....	86,000	53,400	34,100
PA-11 .....	87,400	57,600	37,700
PA-15 .....	82,700	52,000	32,500
SC-02 .....	115,600	73,800	46,100
TX-01 .....	88,400	47,100	30,600
UT-04 .....	77,700	49,100	31,800
VA-05 .....	90,700	56,300	35,700

It is worth noting that in reference to the history of waivers and modifications under the *HEROES Act*, the Department has stipulated the following:

Prior to the COVID-19 emergency, exercises of *HEROES Act* authority protected student borrowers who were on active military duty, who were performing qualifying National Guard duty, or who lived or worked in disaster areas. The relief included waiving the requirement that borrowers return overpayments of certain grant funds; waiving the requirement that service be uninterrupted to qualify for loan cancellation on the basis of employment in certain occupations; extending the maximum period of forbearance for Perkins loans and eligibility for deferment of Family Education Loans; and requiring the Department to pay the interest that accrues during extended deferments. In response to the COVID-19 emergency, both Secretary DeVos and Secretary Cardona exercised their *HEROES Act* authority to suspend payment of interest and principal on student loans held by the Department and to count each month of non-payment toward any loan forgiveness program for which the borrower would have otherwise qualified and was seeking.<sup>12</sup>

*Applicability of the Congressional Review Act*

The *Congressional Review Act* (CRA) gives Congress the opportunity to nullify certain actions by federal agencies.<sup>13</sup> Under the CRA, federal agencies must submit to Congress a report on each new rule promulgated before the rule can take effect.<sup>14</sup> The CRA allows Congress a prescribed period to review and disapprove federal agency rules<sup>15</sup> and if a resolution of disapproval is passed by both branches of Congress and signed by the President, then the rule has no force or effect.<sup>16</sup>

Just like with all previous pandemic actions made using *HEROES Act* authority, the Department did not submit the August 2022 extension of the payment pause and the debt relief plan to

<sup>12</sup> Letter from Lisa Brown, General Counsel, U.S. Dep't of Educ., to Shari Brewster, Assistant General Counsel for Appropriations Law, U.S. Government Accountability Office, 7-8 (Feb. 22, 2023), <https://www2.ed.gov/documents/gao-cra-response-22223-signed.pdf> (citations omitted).

<sup>13</sup> See 5 U.S.C. § 801 et seq.

<sup>14</sup> 5 U.S.C. § 801(a)(1)(A).

<sup>15</sup> 5 U.S.C. § 802.

<sup>16</sup> 5 U.S.C. § 801(b)(1).

Congress as a rule. If a member of Congress believes an agency action does constitute a rule, they may ask the Government Accountability Office (GAO) to issue a legal opinion on the question. On March 17, 2023, the GAO concluded after a request was made by Reps. Foxx (R–NC), Good (R–VA), and Miller-Meeks (R–IA) and Sens. Cassidy (R–LA) and Cornyn (R–TX), that the Department’s waivers and modifications action taken on August 22, 2022 did in fact meet the definition of a rule for purposes of the CRA.<sup>17</sup> Therefore, these waivers and modifications (both the September–December 2022 payment pause and the One Time Student Debt Relief Plan) were subject to the requirement that they be submitted to Congress as a rule.

While Committee Democrats recognize that the decision of GAO is final and binding, it should be noted that no other usage of HEROES Act authority has been submitted by a Member of Congress for GAO to make a legal determination.<sup>18</sup> If Committee Republicans believe, as GAO has asserted, that waivers and modifications under the HEROES Act constitute a rule per CRA, then why have they not challenged any of the pauses authorized under President Trump, or other pauses initiated under President Biden? It is clear Committee Republicans sought this opinion in this instance not to ensure proper enactment of executive action, but because they will stop at nothing to attempt to derail President Biden’s goal of providing student loan debt relief to millions of Americans.

#### PREVIOUS REPUBLICAN ATTACKS ON ONE-TIME DEBT RELIEF

H.J. Res. 45 is not the first attempt by Republicans to attack the Biden Administration’s one-time student loan debt relief plan. The plan is currently on hold due to two court cases that the U.S. Supreme Court heard on February 28—*Biden v. Nebraska*<sup>19</sup> and *Department of Education v. Brown*<sup>20</sup>—brought or championed by conservatives challenging the plan on differing legal grounds.<sup>21</sup> The Supreme Court’s ruling is expected by the end of June 2023, and the debt relief plan is already on hold until the disposition of that case.<sup>22</sup>

Not content with a hold on the program pending Supreme Court review, on April 26, House Republicans passed their *Limit, Save, Grow Act*, with 4 Republicans joining all voting Democrats in oppo-

<sup>17</sup> U.S. Gov’t Accountability Off., U.S. Department of Education—Applicability of the Congressional Review Act to the Department of Education’s Student Loan Debt Relief Website and Accompanying Federal Register Publication, 1 (March 17, 2023), <https://www.gao.gov/products/b-334644>.

<sup>18</sup> GAO noted this in their opinion remarking they were not asked to analyze those pauses by a Member of Congress, and that the fact those prior actions were not challenged is not dispositive as it relates as to whether the action they were asked to provide an opinion on is a rule or not. *See id.* at 7.

<sup>19</sup> *See* Brief for Respondents, *Biden v. Nebraska*, No. 22–506 (2022), [https://www.supremecourt.gov/DocketPDF/22/22-506/253353/20230127155912043\\_2023.01.27%20-%20Respondents%20Brief%20FINAL.pdf](https://www.supremecourt.gov/DocketPDF/22/22-506/253353/20230127155912043_2023.01.27%20-%20Respondents%20Brief%20FINAL.pdf).

<sup>20</sup> Brief for Respondents, *U.S. Dep’t of Educ. v. Brown*, No. 22–535 (2022), [https://www.supremecourt.gov/DocketPDF/22/22-535/253308/20230127141422535\\_22-535%20Respondents%20Brief%20Final.pdf](https://www.supremecourt.gov/DocketPDF/22/22-535/253308/20230127141422535_22-535%20Respondents%20Brief%20Final.pdf).

<sup>21</sup> Dan Mangan, *Supreme Court takes second case challenging Biden student loan relief*, CNBC (last visited May 16, 2023), <https://www.cnbc.com/2022/12/12/supreme-court-takes-2nd-biden-student-loan-relief-challenge.html>.

<sup>22</sup> Cora Lewis, *Supreme Court student loan hearing: What you Need to know*, AP News (last visited May 17, 2023), <https://apnews.com/article/student-loan-forgiveness-scotus-what-to-know-06a8ac6187fb39b2edc2cf5a379c22c0#:text=The%20relief%20under%20Biden's%20plan,%20student%20loans%20not%20private%20loans>.

sition.<sup>23</sup> This bill, better titled the *Default on America Act*, would require 22 percent across the board cuts to all non-defense discretionary spending over the next ten years.<sup>24</sup> In addition to these harmful cuts to funding for low-income students, students with disabilities, and student mental health services, the bill would rescind both the debt relief program and program changes the Biden Administration proposed to the Income Driven Repayment (IDR) plan.<sup>25</sup> It would also prohibit the Department, under any Administration, from drafting or proposing any “economically significant regulations” or executive action regarding federal student loans.<sup>26</sup> This thoroughly unserious bill is the vehicle House Republicans are using as a starting point in their negotiations with the White House over ensuring America does not default on its debts.<sup>27</sup> House Republicans have already voted to overturn the debt relief program and go a step further to prohibit any future regulatory changes to the loan program, but are still moving forward with H.J. Res. 45 in what seems like a truly fruitless endeavor.

#### IMPACT OF H.J. RES. 45 ON ONE-TIME DEBT RELIEF AND THE PAYMENT PAUSE

If enacted, H.J. Res. 45 would prohibit the Biden Administration from implementing the One-time Federal Student Loan Debt Relief plan. It would also roll back the loan payment pause for the months of September through December 2022. It is important to note that the pause did not just impact payments; interest accrual and collections are suspended by the pause, and every month of paused payment also is counted towards totals of IDR and PSLF payments for borrowers in those programs. Interest would have to be calculated (and possibly capitalized on top of existing loan balances), and some borrowers who had their loans discharged due to payment counts that included any paused payments from September to December 2022 could arguably be determined NOT to have completed all the steps necessary to have their loans forgiven. This unwinding and potential claw back process would be incredibly complicated and confusing for borrowers, servicers, and likely the Department as well.

The timing of H.J. Res. 45 could also create more confusion. Depending on when H.J. Res. 45 is enacted, the Department could be put in the bizarre position of being required to restart repayment immediately for payments due between September and December 2022 while full repayment remains paused until 60 days after the Supreme Court cases are resolved or 60 days after June 30 if they are not resolved.

Committee Republicans earlier in this report argue that the enactment of H.J. Res. 45 would not retroactively impact payments between September and December 2022 without citing any source,

<sup>23</sup> H.R. 2811, 118th Congress, § 212 (2023).

<sup>24</sup> *Id.*

<sup>25</sup> U.S. Dept of Educ., Fact Sheet: House Republican proposals Hurt Children, Students, and Borrower, and Undermine Education. (Apr. 25, 2023), <https://www.ed.gov/news/press-releases/fact-sheet-house-republican-proposals-hurt-children-students-and-borrowers-and-undermine-education>.

<sup>26</sup> H.R. 2811, 118th Congress, § 212 (2023).

<sup>27</sup> Charles Creitz, *Kevin McCarthy: GOP debt ceiling unity prevents Biden from shunning negotiation*, Fox News, May 18, 2023, <https://www.foxnews.com/media/mccarthy-gop-debt-ceiling-unity-prevents-biden-shunning-negotiation>.

legal or otherwise to support that assertion. Yet, the nonpartisan Congressional Research Service (CRS) states clearly that, under the CRA if a joint resolution of disapproval is enacted, “the rule would be deemed not to have had any effect at any time, and even provisions that had become effective would be retroactively negated.”<sup>28</sup> Therefore, the payment pause would be nullified from September to December 2022, and the Department would need to find a way to address the multiple implications of H.J. Res. 45’s enactment. While Committee Democrats don’t have a crystal ball, it is clear that the retroactive nature of the *Congressional Review Act* will create a confusing, chaotic, and economically challenging landscape for borrowers as they restart loan payments, and Committee Republicans refusal to admit the obvious speaks volumes about their actual agenda.

#### RETURN TO REPAYMENT CONFUSION FOR BORROWERS

Such a rapid return to repayment in such a haphazard fashion could create a situation ripe for borrowers to be at serious risk of delinquency and default. A recent analysis by the Federal Reserve Bank of New York foreshadowed the reality that borrowers will likely become delinquent at higher rates once loan repayments return.<sup>29</sup> If payments resume without debt relief, there could be an unprecedented spike of delinquency and default for the most financially vulnerable borrowers.<sup>30</sup> Expediting the return to repayment without a concrete plan developed by the Department and servicers will exacerbate this concern. And with a return to immediate repayment under H.J. Res. 45, collections on defaulted loans could resume immediately, impacting roughly 6 million borrowers.<sup>31</sup> Defaulters could have their wages and taxes garnished, and older defaulters may lose a portion of their Social Security payments. This would significantly undermine the efforts of the Department to support borrowers in default and delinquency through the Fresh Start program.<sup>32</sup>

Committee Democrats are very concerned that borrowers could also have to worry about:

- Their monthly payment amount. It is unclear how long it will take for servicers to be able to operationalize and accurately implement an unprecedented change to the servicing system.
- How much more they will pay each month due to uncertainty around interest costs. Borrowers will have to make multiple months of payments just toward months of unpaid interest before their payments will lower the principal balance. Additionally, borrowers won’t know how much in additional loan costs they will pay

<sup>28</sup> Maeve P. Carey & Christopher M. Davis, Cong. Rsch. Serv., R43992, *The Congressional Review Act (CRA): Frequently Asked Questions*, (2021).

<sup>29</sup> Jacob Goss, et al., *Student Loan Repayment during the Pandemic Forbearance*, Federal Reserve Bank of New York: Liberty Street Economics (March 22, 2022), <https://libertystreeteconomics.newyorkfed.org/2022/03/student-loan-repayment-during-the-pandemic-forbearance/>.

<sup>30</sup> Jacob Goss, et al., *Assessing the Relative Progressivity of the Biden Administration’s Federal Student Loan Forgiveness Proposal*, Federal Reserve Bank of New York, *Staff Reports*, 21 (No. 1046 January 2023), [https://www.newyorkfed.org/medialibrary/media/research/staff\\_reports/sr1046.pdf?sc\\_lang=en](https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr1046.pdf?sc_lang=en).

<sup>31</sup> Cong. Rsch. Serv., *Covid-19 Student Loan Flexibilities and the Congressional Review Act*, (2023) (presentation by the Cong. Rsch. Serv. on file with author.)

<sup>32</sup> U.S. Dep’t of Educ., Off. of Fed. Student Aid, *Get Out of Default With Fresh Start* (Accessed May 16, 2023), <https://studentaid.gov/announcements-events/default-fresh-start>.

if their unpaid interest is capitalized and begins accruing interest, ballooning their balance, and making payment amounts unclear.

- Getting help making payment arrangements with their servicer or enrolling in repayment plans as tens of millions of other loan borrowers are seeking to make sense of their own situation.

- Whether they will benefit from safeguards intended to promote a smooth return to repayment, including easier and more efficient enrollment and recertification into an income driven repayment (IDR) plan and protections against debt collection under the Fresh Start program.

- How it is fair or permissible for their servicer under state or federal law to add interest charges after telling them payments were not required.

#### IMPLICATIONS FOR FUTURE DEPARTMENT RULES ON LOAN WAIVERS AND MODIFICATIONS

The CRA prohibits ED from issuing “a new rule that is substantially the same as the disapproved rule unless subsequent law specifically authorizes the reissued rule.”<sup>33</sup> The enactment of H.J. Res. 45 could have serious long-term implications for the Biden Administration’s future ability to use executive actions to waive or modify the federal student loan program quickly in times of emergency or natural disaster. Committee Democrats firmly believe the executive branch should continue to have the authority to institute and implement related executive actions, such as another payment pause, when necessitated by an emergency.

#### CONCLUSION

At the time of this markup, House Republicans have already passed their detrimental *Limit, Save, Grow Act* that would prohibit the Biden Administration from implementing their one-time debt relief program. H.J. Res. 45 is just another attempt by House Republicans to upset a legal agency action with which they disagree, an attempt that is overwhelmingly likely to fail. This is not a worthwhile use of this Committee’s time. For the reasons stated above, all Committee Democrats present unanimously opposed H.J. Res. 45 when the Committee on Education and the Workforce considered it on May 10, 2023. We urge the House of Representatives to do the same.

ROBERT C. “BOBBY” SCOTT,  
*Ranking Member.*  
RAÚL M. GRIJALVA.  
JOE COURTNEY.  
GREGORIO KILLI CAMACHO  
SABLAN.  
MARK TAKANO.  
MARK DESAULNIER.  
PRAMILA JAYAPAL.

○

<sup>33</sup> 5 U.S.C. § 801(b); see Maeve P. Carey, Cong. Rsch. Serv., IN10996, Reissued Labor Department Rule Tests Congressional Review Act Ban on Promulgating “Substantially the Same” Rules, (2019), <https://www.crs.gov/Reports/IN10996>.