

Public Law 116–91
116th Congress

An Act

To reauthorize mandatory funding programs for historically Black colleges and universities and other minority-serving institutions, and for other purposes.

Dec. 19, 2019
[H.R. 5363]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

This Act may be cited as the “Fostering Undergraduate Talent by Unlocking Resources for Education Act” or the “FUTURE Act”.

SEC. 2. CONTINUED SUPPORT FOR MINORITY-SERVING INSTITUTIONS.

Section 371(b)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1067q(b)(1)(A)) is amended by striking “for each of the fiscal years 2008 through 2019.” and all that follows through the end of the subparagraph and inserting “for fiscal year 2020 and each fiscal year thereafter.”

SEC. 3. SECURE DISCLOSURE OF TAX-RETURN INFORMATION TO CARRY OUT THE HIGHER EDUCATION ACT OF 1965.

(a) **IN GENERAL.**—Paragraph (13) of section 6103(l) of the Internal Revenue Code of 1986 is amended to read as follows:
“(13) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT THE HIGHER EDUCATION ACT OF 1965.—

“(A) **APPLICATIONS AND RECERTIFICATIONS FOR INCOME-CONTINGENT OR INCOME-BASED REPAYMENT.**—The Secretary shall, upon written request from the Secretary of Education, disclose to any authorized person, only for the purpose of (and to the extent necessary in) determining eligibility for, or repayment obligations under, income-contingent or income-based repayment plans under title IV of the Higher Education Act of 1965 with respect to loans under part D of such title, the following return information from returns (for any taxable year specified by the Secretary of Education as relevant to such purpose) of an individual certified by the Secretary of Education as having provided approval under section 494(a)(2) of such Act (as in effect on the date of enactment of this paragraph) for such disclosure:

- “(i) Taxpayer identity information.
- “(ii) Filing status.
- “(iii) Adjusted gross income.
- “(iv) Total number of exemptions claimed, if applicable.
- “(v) Number of dependents taken into account in determining the credit allowed under section 24.

Fostering
Undergraduate
Talent by
Unlocking
Resources for
Education Act.
20 USC 1001
note.

26 USC 6103.

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

“(B) DISCHARGE OF LOAN BASED ON TOTAL AND PERMANENT DISABILITY.—The Secretary shall, upon written request from the Secretary of Education, disclose to any authorized person, only for the purpose of (and to the extent necessary in) monitoring and reinstating loans under title IV of the Higher Education Act of 1965 that were discharged based on a total and permanent disability (within the meaning of section 437(a) of such Act), the following return information from returns (for any taxable year specified by the Secretary of Education as relevant to such purpose) of an individual certified by the Secretary of Education as having provided approval under section 494(a)(3) of such Act (as in effect on the date of enactment of this paragraph) for such disclosure:

“(i) The return information described in clauses (i), (ii), and (vi) of subparagraph (A).

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

“(C) FEDERAL STUDENT FINANCIAL AID.—The Secretary shall, upon written request from the Secretary of Education, disclose to any authorized person, only for the purpose of (and to the extent necessary in) determining eligibility for, and amount of, Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the Higher Education Act of 1965 the following return information from returns (for the taxable year used for purposes of section 480(a) of such Act) of an individual certified by the Secretary of Education as having provided approval under section 494(a)(1) of such Act (as in effect on the date of enactment of this paragraph) for such disclosure:

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

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

“(iii) Amount of total income tax.

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

“(v) Amount of individual retirement account distributions not included in adjusted gross income.

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

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

“(viii) Amounts from retirement pensions and annuities not included in adjusted gross income.

“(ix) If applicable, the fact that any of the following schedules (or equivalent successor schedules) were filed with the return:

“(I) Schedule A.

“(II) Schedule B.

“(III) Schedule D.

“(IV) Schedule E.

“(V) Schedule F.

“(VI) Schedule H.

“(x) If applicable, the amount reported on Schedule C (or an equivalent successor schedule) as net profit or loss.

“(D) ADDITIONAL USES OF DISCLOSED INFORMATION.—

“(i) IN GENERAL.—In addition to the purposes for which information is disclosed under subparagraphs (A), (B), and (C), return information so disclosed may be used by an authorized person, with respect to income-contingent or income-based repayment plans, awards of Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D of title IV of the Higher Education Act of 1965, and discharges of loans based on a total and permanent disability (within the meaning of section 437(a) of such Act), for purposes of—

“(I) reducing the net cost of improper payments under such plans, relating to such awards, or relating to such discharges,

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

“(III) conducting analyses and forecasts for estimating costs related to such plans, awards, or discharges.

“(ii) LIMITATION.—The purposes described in clause (i) shall not include the conduct of criminal investigations or prosecutions.

“(iii) REDISCLOSURE TO INSTITUTIONS OF HIGHER EDUCATION, STATE HIGHER EDUCATION AGENCIES, AND DESIGNATED SCHOLARSHIP ORGANIZATIONS.—Authorized persons may redisclose return information received under subparagraph (C), solely for the use in the application, award, and administration of financial aid awarded by the Federal government or awarded by a person described in subclause (I), (II), or (III), to the following persons:

“(I) An institution of higher education participating in a program under subpart 1 of part A, part C, or part D of title IV of the Higher Education Act of 1965.

“(II) A State higher education agency.

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

This clause shall only apply to the extent that the taxpayer with respect to whom the return information relates provides written consent for such redisclosure to the Secretary of Education.

Applicability.
Consent.

“(E) AUTHORIZED PERSON.—For purposes of this paragraph, the term ‘authorized person’ means, with respect

Definition.

- to information disclosed under subparagraph (A), (B), or (C), any person who—
- “(i) is an officer, employee, or contractor, of the Department of Education, and
- “(ii) is specifically authorized and designated by the Secretary of Education for purposes of such subparagraph (applied separately with respect to each such subparagraph).
- Applicability. “(F) JOINT RETURNS.—In the case of a joint return, any disclosure authorized under subparagraph (A), (B), or (C) with respect to an individual shall be treated for purposes of this paragraph as applying with respect to the taxpayer.”.
- 26 USC 6103. (b) CONFIDENTIALITY OF RETURN INFORMATION.—Section 6103(a)(3) of such Code is amended by inserting “, (13)” after “(12)”.
- (c) CONFORMING AMENDMENTS.—
- (1) Section 6103(p)(3)(A) of such Code is amended by striking “(13)”.
- (2) Section 6103(p)(4) of such Code is amended by inserting “, (13)” after “(1)(10)” each place it appears.
- 26 USC 6103 note. (d) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures after the date of the enactment of this Act.
- 26 USC 6103 note. (e) REQUIREMENT TO DESIGNATE THE INSPECTOR GENERAL OF THE DEPARTMENT OF EDUCATION AS AN AUTHORIZED PERSON.—The Secretary of Education shall authorize and designate the Inspector General of the Department of Education as an authorized person under subparagraph (E)(ii) of section 6103(l)(13) of the Internal Revenue Code of 1986 for purposes of subparagraphs (A), (B), and (C) of such section.
- 26 USC 6103 note. (f) REPORT TO TREASURY.—The Secretary of Education shall annually submit a written report to the Secretary of the Treasury—
- (1) regarding redisclosures of return information under subparagraph (D)(iii) of section 6103(l)(13) of the Internal Revenue Code of 1986, including the number of such redisclosures; and
- (2) regarding any unauthorized use, access, or disclosure of return information disclosed under such section.
- 26 USC 6103 note. (g) REPORT TO CONGRESS.—The Secretary of the Treasury (or the Secretary’s designee) shall annually submit a written report to Congress regarding disclosures under section 6103(l)(13) of the Internal Revenue Code of 1986, including information provided to the Secretary under subsection (f).
- SEC. 4. AUTOMATIC RECERTIFICATION OF INCOME.**
- (a) INCOME-CONTINGENT REPAYMENT.—
- (1) IN GENERAL.—Section 455(e) of the Higher Education Act of 1965 (20 U.S.C. 1087e(e)) is amended by adding at the end the following:
- “(8) AUTOMATIC RECERTIFICATION.—
- “(A) IN GENERAL.—The Secretary shall establish and implement, with respect to any borrower described in subparagraph (B), procedures to—
- “(i) use return information disclosed under section 6103(l)(13) of the Internal Revenue Code of 1986, pursuant to approval provided under section 494, to
- Procedures.
Determinations.

determine the repayment obligation of the borrower without further action by the borrower;

“(ii) allow the borrower (or the spouse of the borrower), at any time, to opt out of disclosure under such section 6103(1)(13) and instead provide such information as the Secretary may require to determine the repayment obligation of the borrower (or withdraw from the repayment plan under this subsection); and

“(iii) provide the borrower with an opportunity to update the return information so disclosed before the determination of the repayment obligation of the borrower.

“(B) APPLICABILITY.—Subparagraph (A) shall apply to each borrower of a loan made under this part who, on or after the date on which the Secretary establishes procedures under such subparagraph—

“(i) selects, or is required to repay such loan pursuant to, an income-contingent repayment plan; or

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

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

(A) by striking “including notification of such borrower” and all that follows through “that if a borrower” and inserting “including notification of such borrower, that if a borrower”; and

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

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

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

“(1) IN GENERAL.—The Secretary shall establish”; and

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

“(2) PROCEDURES FOR ELIGIBILITY.—The Secretary shall—
“(A) consider”;

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

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

SEC. 5. AUTOMATIC INCOME MONITORING PROCEDURES AFTER A TOTAL AND PERMANENT DISABILITY DISCHARGE.

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

“(3) AUTOMATIC INCOME MONITORING.—

“(A) IN GENERAL.—The Secretary shall establish and implement, with respect to any borrower described in subparagraph (B), procedures to—

Determinations.

“(i) use return information disclosed under section 6103(l)(13) of the Internal Revenue Code of 1986, pursuant to approval provided under section 494, to determine the borrower’s continued eligibility for the loan discharge described in subparagraph (B);

“(ii) allow the borrower, at any time, to opt out of disclosure under such section 6103(l)(13) and instead provide such information as the Secretary may require to determine the borrower’s continued eligibility for such loan discharge; and

“(iii) provide the borrower with an opportunity to update the return information so disclosed before determination of such borrower’s continued eligibility for such loan discharge.

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

“(i) to each borrower of a loan that is discharged due to the total and permanent disability (within the meaning of this subsection) of the borrower; and

“(ii) during the period beginning on the date on which such loan is so discharged and ending on the first day on which such loan may no longer be reinstated.”.

Time period.

SEC. 6. PROCEDURE AND REQUIREMENTS FOR REQUESTING TAX RETURN INFORMATION FROM THE INTERNAL REVENUE SERVICE.

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

20 USC 1098h.

“SEC. 494. PROCEDURE AND REQUIREMENTS FOR REQUESTING TAX RETURN INFORMATION FROM THE INTERNAL REVENUE SERVICE.

“(a) NOTIFICATION AND APPROVAL REQUIREMENTS.—

“(1) FEDERAL STUDENT FINANCIAL AID.—In the case of any written or electronic application under section 483 by an individual for Federal student financial aid under a program authorized under subpart 1 of part A, part C, or part D, the Secretary, with respect to such individual and any parent or spouse whose financial information is required to be provided on such application, shall—

“(A) notify such individuals that—

“(i) if such individuals provide approval under subparagraph (B), the Secretary will have the authority to request that the Secretary of the Treasury disclose return information of such individuals to authorized persons (as defined in section 6103(l)(13) of the Internal Revenue Code of 1986) for the relevant purposes described in such section; and

“(ii) the failure to provide such approval for such disclosure will result in the Secretary being unable to calculate eligibility for such aid to such individual; and

“(B) require, as a condition of eligibility for such aid, that such individuals affirmatively approve the disclosure described in subparagraph (A)(i).

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

“(A) NEW APPLICANTS.—In the case of any written or electronic application by an individual for an income-contingent or income-based repayment plan for a loan under part D, the Secretary, with respect to such individual and any spouse of such individual, shall—

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

“(ii) require, as a condition of eligibility for such repayment plan, that such individuals—

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

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

“(B) RECERTIFICATIONS.—With respect to the first written or electronic recertification (after the date of the enactment of the FUTURE Act) of an individual’s income or family size for purposes of an income-contingent or income-based repayment plan (entered into before the date of the enactment of the FUTURE Act) for a loan under part D, the Secretary, with respect to such individual and any spouse of such individual, shall meet the requirements of clauses (i) and (ii) of subparagraph (A) with respect to such recertification.

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

“(A) provide to such individual the notification described in paragraph (1)(A)(i); and

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

“(i) affirmatively approve the disclosure described in paragraph (1)(A)(i) and agree that such approval shall serve as an ongoing approval of such disclosure until the earlier of—

“(I) the date on which the individual elects to opt out of such disclosure under section 437(a)(3)(A); or

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

“(ii) provide such information as the Secretary may require to confirm the eligibility of such individual for such discharge.

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

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

SEC. 7. INCREASED FUNDING FOR FEDERAL PELL GRANTS.

Section 401(b)(7)(A)(iv) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b)(7)(A)(iv)) is amended—

(1) in subclause (X), by striking “\$1,430,000,000” and inserting “\$1,455,000,000”; and

(2) in subclause (XI), by striking “\$1,145,000,000” and inserting “\$1,170,000,000”.

SEC. 8. REPORTS ON IMPLEMENTATION.

(a) IN GENERAL.—Not later than each specified date, the Secretary of Education and the Secretary of the Treasury shall issue joint reports to the Committees on Health, Education, Labor, and Pensions and Finance of the Senate and the Committees on Education and Labor and Ways and Means of the House of Representatives regarding the amendments made by this Act. Each such report shall include, as applicable—

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

Evaluation. (2) an evaluation of how such implementation had affected the processing of applications for Federal student financial aid, applications for income-based repayment and income-contingent repayment, and applications for discharge of loans under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) based on total and permanent disability; and

(3) implementation issues and suggestions for potential improvements.

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

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

(2) the date that is 120 days after the first day that the disclosure process established under section 6103(l)(13) of the Internal Revenue Code of 1986, as amended by section 3(a) of this Act, is operational and accessible to officers, employees, and contractors of the Department of Education (as specifically authorized and designated by the Secretary of Education); and

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

Approved December 19, 2019.

LEGISLATIVE HISTORY—H.R. 5363:

CONGRESSIONAL RECORD, Vol. 165 (2019):

Dec. 10, considered and passed House and Senate.

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2019):

Dec. 19, Presidential statement.

