

112TH CONGRESS
2D SESSION

H. R. 4170

To increase purchasing power, strengthen economic recovery, and restore fairness in financing higher education in the United States through student loan forgiveness, caps on interest rates on Federal student loans, and refinancing opportunities for private borrowers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2012

Mr. CLARKE of Michigan introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committees on Foreign Affairs and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To increase purchasing power, strengthen economic recovery, and restore fairness in financing higher education in the United States through student loan forgiveness, caps on interest rates on Federal student loans, and refinancing opportunities for private borrowers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Student Loan Forgive-
3 ness Act of 2012”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) A well-educated citizenry is critical to our
7 Nation’s ability to compete in the global economy.

8 (2) The Federal Government has a vested inter-
9 est in ensuring access to higher education.

10 (3) Higher education should be viewed as a
11 public good benefitting our country rather than as a
12 commodity solely benefitting individual students.

13 (4) Total outstanding student loan debt offi-
14 cially surpassed total credit card debt in the United
15 States in 2010, and is on track to exceed
16 \$1,000,000,000,000 during 2012.

17 (5) Excessive student loan debt is impeding eco-
18 nomic growth in the United States. Faced with ex-
19 cessive repayment burdens, many individuals are un-
20 able to start businesses, invest, or buy homes. Re-
21 lieving student loan debt would give these individuals
22 greater control over their earnings and would in-
23 crease entrepreneurship and demand for goods and
24 services.

25 (6) Because of soaring tuition costs, students
26 often have no choice but to amass significant debt

1 to obtain an education that is widely considered a
2 prerequisite for earning a living wage.

3 (7) Amidst rising tuition rates and stagnant
4 grant funding, many students are forced to supple-
5 ment Federal loans with private loans, which fre-
6 quently feature higher interest rates with fewer con-
7 sumer protections.

8 (8) A borrower who experiences an extended
9 hardship for whatever reason, or a borrower who ex-
10periences a series of separate hardships over a
11 longer period of time, will often have no choice but
12 to default on his or her private student loans. Op-
13portunities to put such private loans into forbear-
14ance are limited.

15 (9) During the period of forbearance on private
16 student loans, interest continues to accrue and is
17 capitalized, and once the borrower comes out of for-
18bearance, he or she owes significantly more on the
19 principal of the loan than before the hardship period
20 began.

21 **SEC. 3. 10/10 LOAN REPAYMENT AND FORGIVENESS.**

22 Part G of title IV of the Higher Education Act of
23 1965 is amended by adding at the end the following:

24 **“SEC. 493E. 10/10 LOAN REPAYMENT AND FORGIVENESS.**

25 “(a) 10/10 LOAN REPAYMENT PLAN.—

1 “(1) 10/10 LOAN REPAYMENT PLAN AUTHOR-
2 IZED.—Notwithstanding any other provision of this
3 Act, the Secretary shall carry out a program (to be
4 known as the ‘10/10 Loan Repayment Plan’) under
5 which—

6 “(A) a borrower of an eligible loan who is
7 eligible under paragraph (3) may elect to have
8 the borrower’s aggregate monthly payment for
9 all such loans not exceed the monthly payment
10 amount described in paragraph (2);

11 “(B) the holder of such an eligible loan
12 shall apply the borrower’s monthly payment
13 under this subsection first toward interest due
14 on the loan, next toward any fees due on the
15 loan, and then toward the principal of the loan;

16 “(C) any interest due and not paid under
17 subparagraph (B) shall continue to accrue but
18 shall not be capitalized, and—

19 “(i) shall not be capitalized if the bor-
20 rower ends the election to make 10/10
21 Loan Repayment under this subsection; or

22 “(ii) shall be forgiven in accordance
23 with subsection (b) if the borrower meets
24 the requirements for forgiveness under
25 such subsection;

1 “(D) any principal due and not paid under
2 subparagraph (B) shall be deferred, and shall
3 be forgiven in accordance with subsection (b) if
4 the borrower meets the requirements for for-
5 giveness under such subsection;

6 “(E) the amount of time the borrower
7 makes monthly payments under this subsection
8 may exceed 10 years;

9 “(F) a borrower who is repaying an eligible
10 loan pursuant to 10/10 Loan Repayment under
11 this subsection may elect, at any time, to termi-
12 nate repayment pursuant to 10/10 Loan Repay-
13 ment and repay such loan under the standard
14 repayment plan, in which case the amount of
15 time the borrower is permitted to repay such
16 loans may exceed 10 years; and

17 “(G) the special allowance payment to a
18 lender calculated under section 438(b)(2)(I),
19 when calculated for a loan in repayment under
20 this section, shall be calculated on the principal
21 balance of the loan and on any accrued interest
22 unpaid by the borrower in accordance with this
23 section.

24 “(2) 10/10 LOAN REPAYMENT MONTHLY PAY-
25 MENT FORMULA.—A borrower who has elected to

1 participate in the 10/10 Loan Repayment Plan
2 under this subsection shall, during each month the
3 borrower is participating in such Plan, make a
4 monthly payment in an amount equal to—

5 “(A) one-twelfth of the amount that is 10
6 percent of the result obtained by calculating, on
7 at least an annual basis, the amount by
8 which—

9 “(i) the borrower’s, and the bor-
10 rower’s spouse’s (if applicable), adjusted
11 gross income; exceeds

12 “(ii) 150 percent of the poverty line
13 applicable to the borrower’s family size as
14 determined under section 673(2) of the
15 Community Services Block Grant Act (42
16 U.S.C. 9902(2));

17 “(B) in the case of a borrower who is in
18 deferment due to an economic hardship de-
19 scribed in section 435(o), \$0; or

20 “(C) in the case of a borrower for whom
21 the payment calculated under subparagraph (A)
22 is \$0, but who is not in deferment due to an
23 economic hardship described in section 435(o),
24 an amount determined by the Secretary, on a
25 case-by-case basis and not less than annually,

1 based on criteria established by the Secretary
2 that shall take into consideration—

3 “(i) the specific financial and other
4 relevant circumstances of a borrower, and
5 the borrower’s spouse (if applicable), in-
6 cluding income, assets, total amount of eli-
7 gible loans, other debt, family size, employ-
8 ment status, and the period of time the
9 borrower has been subject to this subpara-
10 graph;

11 “(ii) the need to prevent abuse of the
12 relief provided under the 10/10 Loan Re-
13 payment Plan under this subsection and
14 the 10/10 Forgiveness Program under sub-
15 section (b); and

16 “(iii) any other factors the Secretary
17 considers to be appropriate to such deter-
18 mination.

19 “(3) ELIGIBILITY.—

20 “(A) ELIGIBILITY DETERMINATIONS.—The
21 Secretary shall establish procedures for annu-
22 ally determining the borrower’s eligibility for
23 10/10 Loan Repayment, including verification
24 of a borrower’s annual adjusted gross income
25 and the annual amount due on the total

1 amount of eligible loans, and such other proce-
2 dures as are necessary to effectively implement
3 10/10 Loan Repayment under this subsection.
4 The Secretary shall consider, but is not limited
5 to, the procedures established in accordance
6 with section 455(e)(1) or in connection with in-
7 come sensitive repayment schedules under sec-
8 ~~tion 428(b)(9)(A)(iii) or 428C(b)(1)(E).~~

9 “(B) **AUTO-DEBIT REQUIREMENT.**—To be
10 eligible to participate in the 10/10 Loan Repay-
11 ment Plan under this subsection, a borrower
12 shall agree to have all eligible loan payments
13 that are made on or after the date that the bor-
14 rower elects to participate in such repayment
15 plan automatically electronically debited from a
16 bank account.

17 “(4) **SPECIAL RULE FOR MARRIED BORROWERS**
18 **FILING SEPARATELY.**—In the case of a married bor-
19 rower who files a separate Federal income tax re-
20 turn, the Secretary shall calculate the amount of the
21 borrower’s 10/10 Loan Repayment under this sub-
22 section solely on the basis of the borrower’s student
23 loan debt and adjusted gross income.

24 “(b) **10/10 LOAN FORGIVENESS.**—

1 “(1) IN GENERAL.—The Secretary shall carry
2 out a program (to be known as the ‘10/10 Loan
3 Forgiveness Program’) to forgive a qualified loan
4 amount, in accordance with paragraph (3), on an eli-
5 gible loan for a borrower who, after the date that is
6 10 years prior to the date of enactment of the Stu-
7 dent Loan Forgiveness Act of 2012, has made 120
8 monthly payments on the eligible loan pursuant to
9 any one or a combination of the following:

10 “(A) Monthly payment under the 10/10
11 Loan Repayment Plan under subsection (a).

12 “(B) Monthly payment under any other re-
13 payment plan authorized under part B or D of
14 an amount that, for a given month, is not less
15 than the monthly payment amount calculated
16 under subsection (a) that the borrower would
17 have owed in the year in which such payment
18 was made, based on the borrower’s adjusted
19 gross income and eligible loan balance for such
20 year.

21 “(C) For any month after such date dur-
22 ing which the borrower is in deferment due to
23 an economic hardship described in section
24 435(o), monthly payment of \$0.

1 “(2) METHOD OF LOAN FORGIVENESS.—To
2 provide loan forgiveness under paragraph (1), the
3 Secretary is authorized to carry out a program—

4 “(A) through the holder of the loan, to as-
5 sume the obligation to repay a qualified loan
6 amount for a loan made, insured, or guaranteed
7 under part B of this title; and

8 “(B) to cancel a qualified loan amount for
9 a loan made under part D of this title.

10 “(3) QUALIFIED LOAN AMOUNT.—After the
11 borrower has made 120 monthly payments described
12 in paragraph (1), the Secretary shall forgive—

13 “(A) with respect to new borrowers on or
14 after the date of enactment of the Student
15 Loan Forgiveness Act of 2012, the sum of—

16 “(i) the balance of principal and fees
17 due on the borrower’s eligible loans as of
18 the time of such forgiveness, not to exceed
19 \$45,520; and

20 “(ii) the amount of interest that has
21 accrued on the balance described in clause
22 (i) as of the time of such forgiveness; or

23 “(B) with respect to any other eligible bor-
24 rower, the balance of principal, interest, and

1 fees due on the borrower's eligible loans as of
2 the time of such forgiveness.

3 “(4) EXCLUSION FROM TAXABLE INCOME.—

4 The amount of a borrower's eligible loans forgiven
5 under this section shall not be included in gross in-
6 come of the borrower for purposes of the Internal
7 Revenue Code of 1986.

8 “(c) SUPPORTING DOCUMENTATION REQUIRED.—A

9 borrower who has elected to participate in the 10/10 Loan
10 Repayment Plan under subsection (a), or who is request-
11 ing forgiveness under the 10/10 Loan Forgiveness Pro-
12 gram under subsection (b), shall provide to the Secretary
13 such information and documentation as the Secretary de-
14 termines, by regulation, to be necessary to verify the bor-
15 rower's adjusted gross income and payment amounts
16 made on eligible loans of the borrower for the purposes
17 of such Plan or Program.

18 “(d) DEFINITION OF ELIGIBLE LOAN.—In this sec-
19 tion the term ‘eligible loan’ means any loan made, insured,
20 or guaranteed under part B or D (including loans de-
21 scribed in clauses (i) through (iii) of section
22 428L(b)(2)(B) and loans under paragraph (2) of section
23 455(g)).”.

1 **SEC. 4. CAPPING INTEREST RATES FOR ALL FEDERAL DI-**
2 **RECT LOANS.**

3 Section 455(b) of the Higher Education Act of 1965
4 (20 U.S.C. 1087e(b)) is amended—

5 (1) by redesignating paragraphs (8) and (9) as
6 paragraphs (9) and (10), respectively; and

7 (2) by inserting after paragraph (7) the fol-
8 lowing:

9 “(8) **RATE OF INTEREST FOR ALL NEW FED-**
10 **ERAL DIRECT LOANS.**—Notwithstanding any other
11 provision of this Act, with respect to a loan under
12 this part for which the first disbursement of prin-
13 cipal is made (or in the case of a Federal Direct
14 Consolidation Loan, for which the application is re-
15 ceived) on or after July 1, 2012, or the date of en-
16 actment of the Student Loan Forgiveness Act of
17 2012, whichever is later, the applicable rate of inter-
18 est shall not exceed 3.4 percent.”.

19 **SEC. 5. IMPROVING AND EXPANDING PUBLIC SERVICE**
20 **LOAN FORGIVENESS.**

21 Section 455(m) of the Higher Education Act of 1965
22 (20 U.S.C. 1087e(m)) is amended—

23 (1) in paragraph (1), by striking “120” and in-
24 serting “60” each place it appears; and

25 (2) in paragraph (3)(B)—

1 (A) in clause (i), by striking “or” after the
2 semicolon;

3 (B) in clause (ii), by striking the period
4 and inserting “; or”; and

5 (C) by adding at the end the following:

6 “(iii) a full-time job as a primary care
7 physician in an area or population des-
8 ignated as a Medically Underserved Area
9 or Population by the Health Resource and
10 Services Administration.”.

11 **SEC. 6. REFINANCING PRIVATE EDUCATION LOANS FOR**
12 **CERTAIN BORROWERS.**

13 (a) CONSOLIDATION FOR CERTAIN BORROWERS.—
14 Section 455(g) of the Higher Education Act of 1965 (20
15 U.S.C. 1087e(g)) is amended—

16 (1) by striking “A borrower” and inserting the
17 following:

18 “(1) IN GENERAL.—A borrower”;

19 (2) by inserting “, and any loan described in
20 paragraph (2)” after “July 1, 2010”; and

21 (3) by adding at the end the following new
22 paragraph:

23 “(2) CONSOLIDATION OF PRIVATE EDUCATION
24 LOANS AS A FEDERAL DIRECT CONSOLIDATION LOAN
25 FOR CERTAIN BORROWERS.—

1 “(A) IN GENERAL.—Notwithstanding any
2 other provision of law, a borrower who meets
3 the eligibility criteria described in subparagraph
4 (B) shall be eligible to obtain a Federal Direct
5 Consolidation loan under this paragraph that—

6 “(i) shall include an eligible private
7 education loan; and

8 “(ii) may include a loan described in
9 section 428C(a)(4).

10 “(B) ELIGIBLE BORROWER.—A borrower
11 of an eligible private education loan is eligible
12 to obtain a Federal Direct Consolidation Loan
13 under this paragraph if the borrower—

14 “(i) was eligible to borrow a loan
15 under section 428H, a Federal Direct Un-
16 subsidized Stafford Loan, a loan under
17 section 428B, or a Federal Direct PLUS
18 loan for a period of enrollment at an insti-
19 tution of higher education, or, with respect
20 to a borrower who was enrolled at an insti-
21 tution of higher education on less than a
22 half-time basis, would have been eligible to
23 borrow such a loan for such period of en-
24 rollment if the borrower had been enrolled
25 on at least a half-time basis;

1 “(ii) borrowed at least one eligible pri-
2 vate education loan for a period of enroll-
3 ment described in clause (i); and

4 “(iii) has an average adjusted gross
5 income (based on the borrower’s adjusted
6 gross income from the 3 most recent cal-
7 endar years before application for consoli-
8 dation under this section) that is equal to
9 or less than the borrower’s total education
10 debt (determined by calculating the sum of
11 the borrower’s loans described in section
12 428C(a)(4) and eligible private education
13 loans) at the time of such application.

14 “(C) DEFINITION OF ELIGIBLE PRIVATE
15 EDUCATION LOAN.—For purposes of this para-
16 graph, the term ‘eligible private education loan’
17 means a private education loan (as such term
18 is defined in section 140 of the Truth in Lend-
19 ing Act (15 U.S.C. 1650)) made on or before
20 the date of enactment of the Student Loan For-
21 giveness Act of 2012, including the amount of
22 outstanding principal, accrued interest, and re-
23 lated fees and costs (as determined by the Sec-
24 retary) owed by a borrower on such a loan.

25 “(D) PAYMENT TO THE HOLDER.—

1 “(i) SECRETARY.—For each eligible
2 private education loan that a borrower is
3 consolidating under this paragraph, the
4 Secretary shall make a payment to the
5 holder of such loan in an amount equal to
6 the amount consolidated under this para-
7 graph with respect to such loan.

8 “(ii) HOLDER.—Upon receipt of a
9 payment described in clause (i), a holder
10 shall discharge the liability on the loan
11 consolidated under this paragraph in the
12 amount of such payment.

13 “(E) TERMS AND RATE OF INTEREST.—A
14 Federal Direct Consolidation Loan made under
15 this paragraph shall have the same terms and
16 conditions as a Federal Direct Consolidation
17 loan under paragraph (1), except that the appli-
18 cable rate of interest for a Federal Direct Con-
19 solidation loan made under this paragraph shall
20 not exceed 3.4 percent.

21 “(F) NOTIFICATION OF ELIGIBLE BOR-
22 ROWERS.—The Secretary shall take such steps
23 as may be necessary to notify eligible borrowers
24 of the availability of consolidation under this
25 paragraph no later than 60 days after the date

1 of enactment of the Student Loan Forgiveness
2 Act of 2012, including notifying such borrowers
3 of the deadline to apply for such a loan under
4 subparagraph (G).

5 “(G) APPLICATION DEADLINE FOR LOANS
6 UNDER THIS PARAGRAPH.—A borrower may
7 apply for loans under this paragraph during the
8 1-year period beginning on the date of enact-
9 ment of the Student Loan Forgiveness Act of
10 2012. The Secretary shall not make a Federal
11 Direct Consolidation Loan under this para-
12 graph to any borrower who has not submitted
13 an application for such a loan to the Secretary
14 before the end of such period.

15 “(H) AUTHORIZATION AND APPROPRIA-
16 TION.—There are authorized to be appro-
17 priated, and there are appropriated, such sums
18 as may be necessary to carry out this para-
19 graph.”.

20 (b) CONFORMING AMENDMENT.—Section
21 428C(a)(3)(B)(i)(V) of the Higher Education Act of 1965
22 (20 U.S.C. 1078–3(a)(3)(B)(i)(V)) is amended—

23 (1) by striking “or” at the end of item (bb);

24 (2) by striking the period at the end of item

25 (cc) and inserting “; or”; and

1 (3) by adding at the end the following:

2 “(dd) for the purpose of
3 consolidating an eligible private
4 education loan under section
5 455(g)(2), whether such loan is
6 consolidated alone, with other eli-
7 gible private education loans, or
8 with loans described in para-
9 graph (4).”.

10 **SEC. 7. OFFSET.**

11 Funds appropriated or otherwise made available for
12 a fiscal year to carry out this Act and the amendments
13 made by this Act shall be made available from the funds
14 available for Overseas Contingency Operations.

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