SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

The Senate Judiciary Committee Report on S.256 states:

“Sec. 220. Nondischargeability of Certain Educational Benefits and Loans. Section 220 of the Act amends section 523(a)(8) of the Bankruptcy Code to provide that a debt for a qualified education loan (as defined in section 221(e)(1) of the Internal Revenue Code) is nondischargeable, unless excepting such debt from discharge would impose an undue hardship on the debtor and the debtor's dependents.”

The final version of S.256 as reported in the US House reads:

“Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

'(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for--

'(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

'(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

'(B) any other educational loan that is a qualified education loan, as defined in section 221(d)(1) of the Internal Revenue Code (see below) of 1986, incurred by a debtor who is an individual;’”

The following cites are from the Cornell Legal Information Institute’s (LII) U. S. Code collection website:

INTERNAL REVENUE CODE OF 1986

TITLE 26 > Subtitle A > CHAPTER 1 > Subchapter B > PART VII > § 221

LII Release date: 2005-08-31

(d) Definitions
For purposes of this section—
(1) **Qualified education loan**
The term “qualified education loan” means any indebtedness incurred by the taxpayer solely to pay qualified higher education expenses (see below)—

(A) which are incurred on behalf of the taxpayer, the taxpayer’s spouse, or any dependent of the taxpayer as of the time the indebtedness was incurred,

(B) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

(C) which are attributable to education furnished during a period during which the recipient was an eligible student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term “qualified education loan” shall not include any indebtedness owed to a person who is related (within the meaning of section 267 (b) or 707 (b)(1)) to the taxpayer or to any person by reason of a loan under any qualified employer plan (as defined in section 72 (p)(4)) or under any contract referred to in section 72 (p)(5).

(2) **Qualified higher education expenses**
The term “qualified higher education expenses” means the cost of attendance (as defined in section 472 of the Higher Education Act of 1965, 20 U.S.C. 1087ll (see below), as in effect on the day before the date of the enactment of this Act) at an eligible educational institution, reduced by the sum of—

(A) the amount excluded from gross income under section 127, 135, 529, or 530 by reason of such expenses, and

(B) the amount of any scholarship, allowance, or payment described in section 25A (g)(2).

For purposes of the preceding sentence, the term “eligible educational institution” has the same meaning given such term by section 25A (f)(2), except that such term shall also include an institution conducting an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility which offers postgraduate training.

(3) **Eligible student**
The term “eligible student” has the meaning given such term by section 25A (b)(3).

(4) **Dependent**
The term “dependent” has the meaning given such term by section 152.
equipment, materials, or supplies required of all students in the same course of study;
(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses, including a reasonable allowance for the documented rental or purchase of a personal computer, for a student attending the institution on at least a half-time basis, as determined by the institution;
(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—
(A) shall be an allowance determined by the institution for a student without dependents residing at home with parents;
(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board; and
(C) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board;
(4) for less than half-time students (as determined by the institution) tuition and fees and an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (8));
(5) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;
(6) for incarcerated students only tuition and fees and, if required, books and supplies;
(7) for a student enrolled in an academic program in a program of study abroad approved for credit by the student’s home institution, reasonable costs associated with such study (as determined by the institution at which such student is enrolled);
(8) for a student with one or more dependents, an allowance based on the estimated actual expenses incurred for such dependent care, based on the number and age of such dependents, except that—
(A) such allowance shall not exceed the reasonable cost in the community in which such student resides for the kind of care provided; and
(B) the period for which dependent care is required includes, but is not limited to, class-time, study-time, field work, internships, and commuting time;
(9) for a student with a disability, an allowance (as determined by the institution) for those expenses related to the student's disability, including special services, personal assistance, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies;
(10) for a student receiving all or part of the student’s instruction by means of telecommunications technology, no distinction shall be made with respect to the mode of instruction in determining costs;
(11) for a student engaged in a work experience under a cooperative education program, an allowance for reasonable costs associated with such employment (as determined by the institution); and
(12) for a student who receives a loan under this or any other Federal law, or, at the option of the institution, a conventional student loan incurred by the student to cover a student’s cost of attendance at the institution, an allowance for the actual cost of any loan fee, origination fee, or insurance premium charged to such student or such parent on such loan, or the average cost of any such fee or premium charged by the Secretary, lender, or guaranty agency making or insuring such loan, as the case may be.