

117TH CONGRESS
1ST SESSION

S. 821

To amend the Higher Education Act of 1965 to establish a simplified income-driven repayment plan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 18, 2021

Mr. BURR (for himself and Mr. KING) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Higher Education Act of 1965 to establish a simplified income-driven repayment plan, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Repay Act of 2021”.

5 **SEC. 2. SIMPLIFIED INCOME-DRIVEN REPAYMENT PLAN.**

6 Part G of title IV of the Higher Education Act of
7 1965 (20 U.S.C. 1088 et seq.) is amended by inserting
8 after section 493D the following:

1 **“SEC. 493E. SIMPLIFIED INCOME-DRIVEN REPAYMENT**
 2 **PLAN.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) COVERED FEDERAL DIRECT LOAN.—The
 5 term ‘covered Federal Direct Loan’ means a Federal
 6 Direct Stafford Loan, a Federal Direct Unsubsidized
 7 Stafford Loan, a Federal Direct Consolidation Loan
 8 (other than a Federal Direct Consolidation Loan
 9 whose proceeds were used to discharge the liability
 10 of a Federal Direct PLUS loan made on behalf of
 11 a dependent student or a loan under section 428B
 12 made on behalf of a dependent student), or a Fed-
 13 eral Direct PLUS Loan (other than a Federal Di-
 14 rect PLUS Loan made on behalf of a dependent stu-
 15 dent) made under part D.

16 “(2) DISCRETIONARY INCOME.—The term ‘dis-
 17 cretionary income’ means the amount by which a
 18 borrower’s (and the borrower’s spouse, if applicable)
 19 annual adjusted gross income exceeds 150 percent of
 20 the poverty line applicable to the borrower’s family
 21 size.

22 “(3) DISCRETIONARY INCOME BEND POINT.—
 23 The term ‘discretionary income bend point’ means
 24 \$25,000, adjusted annually for inflation as deter-
 25 mined by the Consumer Price Index (as such term

1 is defined in section 478(f)) for the previous cal-
 2 endar year.

3 “(4) INCOME-DRIVEN CALCULATION.—

4 “(A) IN GENERAL.—The term ‘income-
 5 driven calculation’, when used with respect to a
 6 borrower, means the annual amount due on the
 7 total amount of covered Federal Direct Loans,
 8 which annual amount is equivalent to—

9 “(i) 10 percent of the borrower’s dis-
 10 cretionary income that is less than the dis-
 11 cretionary income bend point, plus

12 “(ii) 15 percent of the borrower’s dis-
 13 cretionary income that is equal to or great-
 14 er than the discretionary income bend
 15 point.

16 “(B) ANNUAL CALCULATION.—The cal-
 17 culation under subparagraph (A) shall be deter-
 18 mined on an annual basis for the duration of
 19 the repayment period described in subsection
 20 (b).

21 “(5) NEW BORROWER.—The term ‘new bor-
 22 rower’ means a borrower who—

23 “(A) as of July 1, 2022, has no out-
 24 standing balance on a student loan made, in-
 25 sured, or guaranteed under part B or D; or

1 “(B) has no outstanding balance on a stu-
 2 dent loan made, insured, or guaranteed under
 3 part B or D on the date the borrower receives
 4 a loan made under part D on or after July 1,
 5 2022.

6 “(b) SIMPLIFIED INCOME-DRIVEN REPAYMENT
 7 PLAN AUTHORIZED.—

8 “(1) IN GENERAL.—The Secretary shall carry
 9 out a simplified income-driven repayment program
 10 for new borrowers that meets the following require-
 11 ments:

12 “(A) A new borrower of any covered Fed-
 13 eral Direct Loan may elect to have the bor-
 14 rower’s aggregate monthly payment for all such
 15 loans equal to the income-driven calculation, di-
 16 vided by 12.

17 “(B) The holder of such a loan shall apply
 18 the borrower’s monthly payment under this sub-
 19 section first toward interest due on the loan,
 20 next toward any fees due on the loan, and then
 21 toward the principal of the loan.

22 “(C) Any interest due and not paid under
 23 subparagraph (B)—

24 “(i) shall, on Federal Direct Stafford
 25 Loans, be paid by the Secretary for a pe-

1 riod of not more than 3 years after the
2 date of the borrower’s election under sub-
3 paragraph (A), except that such period
4 shall not include any period during which
5 the borrower is in deferment due to an eco-
6 nomic hardship described in section
7 435(o); and

8 “(ii) shall be capitalized—

9 “(I) in the case of a Federal Di-
10 rect Stafford Loan, subject to clause
11 (i)—

12 “(aa) at the time the bor-
13 rower ends the election to make
14 simplified income-driven repay-
15 ment under this subsection; or

16 “(bb) at the time the bor-
17 rower’s monthly payment calcula-
18 tion under subparagraph (A) ex-
19 ceeds the monthly payment cal-
20 culation under the fixed repay-
21 ment plan, based on a 10-year
22 repayment period, when the bor-
23 rower first made the election
24 under subparagraph (A); and

1 “(II) in the case of a Federal Di-
2 rect Unsubsidized Stafford Loan—

3 “(aa) at the time the bor-
4 rower ends the election to make
5 simplified income-driven repay-
6 ment under this subsection; or

7 “(bb) at the time the bor-
8 rower’s monthly payment calcula-
9 tion under subparagraph (A) ex-
10 ceeds the monthly payment cal-
11 culation under the fixed repay-
12 ment plan, based on a 10-year
13 repayment period, when the bor-
14 rower first made the election
15 under subparagraph (A).

16 “(D) Any principal due and not paid under
17 subparagraph (B) shall be deferred.

18 “(E) The amount of time a new borrower
19 shall make monthly payments under subpara-
20 graph (A) may exceed 10 years.

21 “(F) If the borrower no longer wishes to
22 continue the election under this subsection,
23 then—

24 “(i) the maximum monthly payment
25 required to be paid for all covered Federal

Direct Loans shall be equal to the monthly amount calculated under section 428(b)(9)(A)(i) or 455(d)(1)(A), based on a 10-year repayment period, when the borrower first made the election described in this subsection; and

“(ii) the amount of time the borrower is permitted to repay such loans may exceed 10 years.

“(G) The Secretary shall cancel the outstanding balance of principal and interest due for a new borrower whose balance of principal of covered Federal Direct Loans did not exceed \$57,500 on the date the borrower’s repayment period began, or whose balance of principal of covered Federal Direct Loans did not exceed the maximum aggregate amount of loans an independent undergraduate student could borrow, pursuant to section 428H(d)(4)(B), on the date the borrower’s final covered Federal Direct Loan was disbursed, whichever amount is greater, if the borrower—

“(i) at any time, elected to participate under subparagraph (A); and

“(ii) for 20 years—

1 “(I) made monthly payments
2 pursuant to subparagraph (A); or

3 “(II) was in deferment due to an
4 economic hardship described in sec-
5 tion 435(o).

6 “(H) The Secretary shall cancel the out-
7 standing balance of principal and interest due
8 for a new borrower whose balance of principal
9 of covered Federal Direct Loans exceeded
10 \$57,500 on the date the borrower’s repayment
11 period began, or whose balance of principal of
12 covered Federal Direct Loans exceeded the
13 maximum aggregate amount of loans an inde-
14 pendent undergraduate student could borrow,
15 pursuant to section 428H(d)(4)(B), on the date
16 the borrower’s final covered Federal Direct
17 Loan was disbursed, whichever amount is great-
18 er, if the borrower—

19 “(i) at any time, elected to participate
20 under subparagraph (A); and

21 “(ii) for 25 years—

22 “(I) made monthly payments
23 pursuant to subparagraph (A); or

1 “(II) was in deferment due to an
2 economic hardship described in sec-
3 tion 435(o).

4 “(I) A borrower may elect to discontinue
5 repayment pursuant to this subsection, at any
6 time, and enter into repayment pursuant to sec-
7 tion 455(d)(2)(A).

8 “(2) MONTHLY PAYMENTS.—Only monthly pay-
9 ments made pursuant to paragraph (1)(A) shall be
10 considered eligible payments toward the forgiveness
11 of outstanding loan principal and interest under sub-
12 paragraphs (G) and (H) of paragraph (1).

13 “(c) ELIGIBILITY DETERMINATIONS.—The Secretary
14 shall annually determine a borrower’s eligibility for the
15 simplified income-driven repayment plan under this sec-
16 tion through—

17 “(1) verification of a borrower’s annual ad-
18 justed gross income;

19 “(2) the annual amount due on the total
20 amount of covered Federal Direct Loans; and

21 “(3) such other procedures as are necessary to
22 effectively implement the simplified income-driven
23 repayment plan under this section.

24 “(d) SPECIAL RULE FOR MARRIED BORROWERS FIL-
25 ING SEPARATELY.—In the case of a married borrower who

1 files a separate Federal income tax return, the Secretary
2 shall calculate the borrower's income-driven calculation on
3 the basis of the borrower's total amount due on covered
4 Federal Direct Loans and the married couple's combined
5 adjusted gross income. In the case of a married couple
6 in which both individuals repay their loans under this sec-
7 tion, the Secretary shall calculate each borrower's income-
8 driven calculation on the basis of each borrower's total
9 amount due on covered Federal Direct Loans and the
10 married couple's combined adjusted gross income divided
11 by 2.

12 “(e) ANNUAL INCOME VERIFICATION.—

13 “(1) IN GENERAL.—A borrower who elects to
14 participate in the simplified income-driven repay-
15 ment plan under this section shall submit to the Sec-
16 retary, on an annual basis, verification of the bor-
17 rower's annual adjusted gross income.

18 “(2) CONSEQUENCE OF FAILURE TO SUBMIT.—

19 With respect to a borrower who fails to submit to
20 the Secretary verification of the borrower's annual
21 adjusted gross income as required under paragraph
22 (1), any monthly payments made during the period
23 the borrower is in violation of the requirement of
24 paragraph (1) shall not be considered eligible pay-
25 ments toward the forgiveness of outstanding loan

1 principal and interest under subparagraphs (G) and
 2 (H) of subsection (b)(1).”.

3 **SEC. 3. STREAMLINING REPAYMENT PLANS FOR NEW BOR-**
 4 **ROWERS.**

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

7 (1) by striking subsection (d) and inserting the
 8 following:

9 “(d) REPAYMENT PLANS.—

10 “(1) DESIGN AND SELECTION FOR BORROWERS
 11 BEFORE JULY 1, 2022.—With respect to a borrower
 12 of a loan made under this part before July 1, 2022,
 13 and consistent with criteria established by the Sec-
 14 retary, the Secretary shall offer such borrower a va-
 15 riety of plans for repayment of such loan, including
 16 principal and interest on the loan. The borrower
 17 shall be entitled to accelerate, without penalty, re-
 18 payment on the borrower’s loans under this part.
 19 The borrower may choose—

20 “(A) a fixed repayment plan, consistent
 21 with subsection (a)(1) of this section and with
 22 section 428(b)(9)(A)(i);

23 “(B) a graduated repayment plan, con-
 24 sistent with section 428(b)(9)(A)(ii);

1 “(C) an extended repayment plan, con-
2 sistent with section 428(b)(9)(A)(iv), except
3 that the borrower shall annually repay a min-
4 imum amount determined by the Secretary in
5 accordance with section 428(b)(1)(L);

6 “(D) an income contingent repayment
7 plan, with varying annual repayment amounts
8 based on the income of the borrower, paid over
9 an extended period of time prescribed by the
10 Secretary, not to exceed 25 years, except that
11 the plan described in this subparagraph shall
12 not be available to the borrower of a Federal
13 Direct PLUS loan made on behalf of a depend-
14 ent student; and

15 “(E) an income-based repayment plan that
16 enables borrowers who have a partial financial
17 hardship to make a lower monthly payment in
18 accordance with section 493C, except that the
19 plan described in this subparagraph shall not be
20 available to the borrower of a Federal Direct
21 PLUS Loan made on behalf of a dependent
22 student or a Federal Direct Consolidation
23 Loan, if the proceeds of such loan were used to
24 discharge the liability on such Federal Direct

1 PLUS Loan or a loan under section 428B
 2 made on behalf of a dependent student.

3 “(2) DESIGN AND SELECTION FOR NEW BOR-
 4 ROWERS ON OR AFTER JULY 1, 2022.—The Secretary
 5 shall offer a borrower of a loan made under this part
 6 on or after July 1, 2022, the following plans for re-
 7 payment of such loan, including principal and inter-
 8 est on the loan. The borrower shall be entitled to ac-
 9 celerate, without penalty, repayment on the bor-
 10 rower’s loans under this part. The borrower may
 11 choose—

12 “(A) a fixed repayment plan, consistent
 13 with subsection (a)(1) of this section and with
 14 section 428(b)(9)(A)(i); or

15 “(B) a simplified income-driven repayment
 16 plan, consistent with section 493E, except the
 17 plan described in this subparagraph shall not be
 18 available to a borrower of a Federal Direct
 19 PLUS Loan made on behalf of a dependent
 20 student, a Federal Direct Consolidation Loan,
 21 if the proceeds of such loan were used to dis-
 22 charge the liability on such Federal Direct
 23 PLUS Loan or a loan under section 428B
 24 made on behalf of a dependent student.

1 “(3) BORROWER NON-SELECTION.—If a bor-
2 rower of a loan made under this part does not select
3 a repayment plan described in paragraph (1) or (2),
4 the Secretary may provide the borrower with a re-
5 payment plan described in subparagraph (A), (B), or
6 (C) of paragraph (1) for borrowers before July 1,
7 2022, or a repayment plan described in paragraph
8 (2)(A) for new borrowers on or after July 1, 2022.

9 “(4) CHANGES IN SELECTIONS.—The borrower
10 of a loan made under this part may change the bor-
11 rower’s selection of a repayment plan under para-
12 graph (1) or (2), or the Secretary’s selection of a
13 plan for the borrower under paragraph (3), as the
14 case may be, under such terms and conditions as
15 may be established by the Secretary.

16 “(5) ALTERNATIVE REPAYMENT PLANS.—The
17 Secretary may provide, on a case-by-case basis, an
18 alternative repayment plan to a borrower of a loan
19 made under this part on or after July 1, 2022, who
20 demonstrates to the satisfaction of the Secretary
21 that the terms and conditions of the repayment
22 plans available under paragraph (2) are not ade-
23 quate to accommodate the borrower’s exceptional
24 circumstances. Upon request, the Secretary shall
25 make available for such borrower’s repayment plans

described in subparagraphs (B) and (C) of paragraph (1). In designing such alternative repayment plans, the Secretary shall ensure that such plans do not exceed the cost to the Federal Government, as determined on the basis of the present value of future payments by such borrowers, of loans made using the plans available under paragraph (2).

“(6) REPAYMENT AFTER DEFAULT.—For any borrower who has defaulted on a loan made under this part, the Secretary—

“(A) may require the borrower to pay all reasonable collection costs associated with such loan; and

“(B) if such loan was made—

“(i) to any borrower who, before July 1, 2022, had an outstanding balance on a student loan made, insured, or guaranteed under this part or part B, may require the borrower to repay the loan pursuant to an income contingent repayment plan, as described in paragraph (1)(D), or an income-based repayment plan, as described in paragraph (1)(E); or

“(ii) to a new borrower (as defined in section 493E(a)(5)), may provide the bor-

1 rower the option to enroll in the repayment
2 plan described in paragraph (2)(B).

3 “(7) APPLICABILITY PROVISION.—

4 “(A) IN GENERAL.—Except as provided in
5 paragraph (5) and subparagraph (B), the re-
6 payment plans under subparagraphs (B), (C),
7 (D), and (E) of paragraph (1) are not available
8 for a borrower who received the borrower’s first
9 disbursement of a Federal Direct Loan on or
10 after July 1, 2022.

11 “(B) EXCEPTION.—The repayment plans
12 available to a borrower of a Federal Direct
13 PLUS Loan made on behalf of a dependent
14 student or a Federal Direct Consolidation Loan
15 whose proceeds were used to discharge the li-
16 ability of a Federal Direct PLUS Loan made
17 on behalf of a dependent student or a loan
18 under section 428B made on behalf of a de-
19 pendent student on or after July 1, 2022, shall
20 be those described under subparagraphs (A),
21 (B), and (C) of paragraph (1).”; and
22 (2) in subsection (m)—

23 (A) in paragraph (1)—

(i) in the paragraph heading, by striking “IN GENERAL” and inserting “BORROWERS BEFORE JULY 1, 2022”; and

(ii) in the matter preceding subparagraph (A), by striking “The Secretary” and inserting “Except as provided in paragraph (5), the Secretary”;

(B) in paragraph (2), by inserting “or (5)” after “paragraph (1)”; and

(C) by adding at the end the following:

“(5) SIMPLIFIED INCOME-DRIVEN REPAYMENT FOR NEW BORROWERS ON OR AFTER JULY 1, 2022.—

“(A) IN GENERAL.—With respect to an eligible Federal Direct Loan not in default made under this part on or after July 1, 2022, the Secretary shall cancel the balance of interest and principal due, after the conclusion of the employment period described in paragraph clause (iv), as of the time of such cancellation, on any such loan for a borrower who—

“(i) as of July 1, 2022, had no outstanding balance on a student loan made, insured, or guaranteed under this part or part B or had no outstanding balance on a student loan made, insured, or guaran-

1 teed under this part or part B on the date
 2 the borrower received the loan made under
 3 this part on or after July 1, 2022;

4 “(ii) has made 120 monthly payments
 5 on the eligible Federal Direct Loan under
 6 a simplified income-driven repayment plan
 7 under subsection (d)(2)(B);

8 “(iii) is employed in a public service
 9 job at the time of such forgiveness; and

10 “(iv) has been employed in a public
 11 service job during the period in which the
 12 borrower makes each of the 120 payments
 13 described in clause (ii).

14 “(B) ANNUAL INCOME VERIFICATION.—

15 With respect to a borrower who fails to submit
 16 to the Secretary verification of the borrower’s
 17 annual adjusted gross income as required under
 18 section 493E(e), any monthly payments made
 19 during the period the borrower is in violation of
 20 such requirement shall not be considered eligi-
 21 ble payments under subparagraph (A)(ii) to-
 22 ward the cancellation pursuant to this para-
 23 graph of the balance of interest and principal
 24 due on the borrower’s loan.”.

1 **SEC. 4. FIXED REPAYMENT PLAN.**

2 The Higher Education Act of 1965 (20 U.S.C. 1001
3 et seq.) is amended—

4 (1) in section 153(a)(1)(B)(iii)(V), by striking
5 “standard repayment plan” and inserting “fixed re-
6 payment plan”;

7 (2) in section 428(b)(9)(A)(i), by striking
8 “standard repayment plan” and inserting “fixed re-
9 payment plan”;

10 (3) in section 433(b)(7)(B), by striking “stand-
11 ard repayment plan” and inserting “fixed repayment
12 plan”;

13 (4) in section 455—

14 (A) in subsection (e)(7)(B)(iv), by striking
15 “standard repayment plan” and inserting
16 “fixed repayment plan”; and

17 (B) in subsection (m)(1)(A)(ii), by striking
18 “standard repayment plan” and inserting
19 “fixed repayment plan”; and

20 (5) in section 493C—

21 (A) in subsection (a)(3)(A), by striking
22 “standard repayment plan” and inserting
23 “fixed repayment plan”; and

24 (B) in subsection (b)—

(i) in paragraph (7)(B)(iii), by striking “standard repayment plan” and inserting “fixed repayment plan”; and

(ii) in paragraph (8), by striking “standard repayment plan” and inserting “fixed repayment plan”.

**SEC. 5. NOTIFICATION TO BORROWERS ABOUT REPAYMENT
OPTIONS AND ALTERNATIVES TO DEFAULT.**

Not later than 1 year after the date of enactment of this Act, the Secretary of Education shall require servicers of loans made, insured, or guaranteed under part B or D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq. and 1087a et seq.) to—

(1) notify borrowers, in writing and through electronic format, about all repayment options for which the borrower may qualify;

(2) provide borrowers, in writing and through electronic format, information about alternative repayment plans, including the borrower’s estimated monthly payment, expected number of years to repay, expected amount of loan forgiveness, expected total loan forgiveness, and expected total principal and interest paid, associated with each repayment plan in a format that permits the borrower to com-

1 pare the current repayment plan with alternative re-
2 payment plans; and

3 (3) offer to enroll such borrowers in alternative
4 plans, if eligible.

5 **SEC. 6. GAO STUDY ON IMPROVING ENROLLMENT AND**
6 **VERIFICATION ASSOCIATED WITH INCOME-**
7 **DRIVEN REPAYMENT.**

8 Not later than 2 years after the date of enactment
9 of this Act, the Comptroller General of the United States,
10 in consultation with the Secretary of the Treasury, shall—

11 (1) complete a study that—

12 (A) examines the feasibility of simplifying
13 the process for enrolling in, and verifying an-
14 nual eligibility for, the simplified income-driven
15 repayment program authorized under the
16 amendments made by this Act; and

17 (B) provides recommendations, including
18 those relating to streamlined income and em-
19 ployment verification and simplified methods of
20 repayment, for efficient administration of in-
21 come-based repayment programs, including
22 those authorized under the amendments made
23 by this Act; and

24 (2) prepare and submit a report to the Com-
25 mittee on Health, Education, Labor, and Pensions

1 of the Senate and the Committee on Education and
2 the Workforce of the House of Representatives set-
3 ting forth the conclusions of the study described in
4 paragraph (1) in such a manner that the rec-
5 ommendations included in the report can inform fu-
6 ture reauthorizations of the Higher Education Act of
7 1965 (20 U.S.C. 1001 et seq.).

○