

116TH CONGRESS
1ST SESSION

S. 1292

To amend the Higher Education Act of 1965 to provide for Federal student loan reform.

IN THE SENATE OF THE UNITED STATES

MAY 2, 2019

Mr. RUBIO 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 provide for Federal student loan reform.

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 “Leveraging Opportuni-
5 ties for Americans Now Act of 2019” or the “LOAN Act
6 of 2019”.

1 **SEC. 2. ELIMINATION OF INTEREST AND REPLACEMENT**
 2 **WITH FINANCING FEES.**

3 Section 455 of the Higher Education Act of 1965 (20
 4 U.S.C. 1087e) is amended by adding at the end the fol-
 5 lowing:

6 “(r) **ELIMINATION OF INTEREST AND REPLACEMENT**
 7 **WITH FINANCING FEES.**—

8 “(1) **IN GENERAL.**—

9 “(A) **IN GENERAL.**—Except as provided
 10 under subparagraph (B), beginning on July 1,
 11 2021, the Secretary shall make loans under this
 12 part in accordance with this subsection.

13 “(B) **EXCEPTION.**—Beginning on July 1,
 14 2021, the Secretary shall make loans under this
 15 part in accordance with the provisions of this
 16 part other than this subsection to a borrower
 17 who—

18 “(i) was enrolled in an institution of
 19 higher education on June 30, 2021; and

20 “(ii) elects to borrow a loan under
 21 this part in accordance with the provisions
 22 of this part other than this subsection.

23 “(2) **ELIMINATION OF INTEREST.**—For loans
 24 made under this part in accordance with this sub-
 25 section for which the first disbursement is made on

1 or after July 1, 2021, the applicable rate of interest
2 shall be equal to 0 percent.

3 “(3) FINANCING FEES.—

4 “(A) IN GENERAL.—Beginning on July 1,
5 2021, the Secretary shall charge the borrower
6 of a loan made under this part in accordance
7 with this subsection a financing fee determined
8 in accordance with this paragraph and issued
9 on the date the loan is dispersed.

10 “(B) DETERMINATION OF FEE.—The fi-
11 nancing fee for a borrower of a loan made
12 under this part—

13 “(i) that is used for enrollment in an
14 undergraduate course of study (except a
15 Federal Direct PLUS Loan made on be-
16 half of a dependent student), shall be equal
17 to, from the principal amount of the loan,
18 25 percent of the amount of such loan;

19 “(ii) that is used for enrollment in a
20 course of study necessary for enrollment in
21 a program leading to a degree or certifi-
22 cate, shall be equal to, from the principal
23 amount of the loan, 25 percent of the
24 amount of such loan;

“(iii) that is used for enrollment in a program that is necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State, shall be equal to, from the principal amount of the loan, 25 percent of the amount of such loan; and

“(iv) that is a Federal Direct PLUS Loan made on behalf of a dependent student or used for enrollment in a graduate or professional course of study, shall be equal to, from the principal amount of the loan, 38 percent of the amount of such loan.

“(C) REDUCTION DUE TO PREPAYMENT.—

“(i) IN GENERAL.—In order to provide an incentive to borrowers to pay the balance of a loan made under this part earlier than required under the applicable repayment plan, the Secretary may credit or refund any such borrowers for an amount of the financing fee charged under this subsection.

“(ii) REGULATIONS.—

1 “(I) IN GENERAL.—Not later
2 than 9 months after the date of enact-
3 ment of the LOAN Act of 2019, the
4 Secretary shall promulgate regulations
5 establishing the methodology for cred-
6 iting or refunding a financing fee
7 charged under this subsection pursu-
8 ant to clause (i). Such credit or re-
9 fund shall not reduce the financing
10 fee by more than—

11 “(aa) with respect to a bor-
12 rower whose income, as deter-
13 mined under subclause (II), was
14 not more than \$45,000 in the
15 taxable year in which the bor-
16 rower paid an amount from the
17 balance of a loan made under
18 this part earlier than required
19 under the applicable repayment
20 plan, 15 percentage points of
21 such amount;

22 “(bb) with respect to a bor-
23 rower whose income, as deter-
24 mined under subclause (II), was
25 more than \$45,000 but not more

1 than \$95,000 in the taxable year
2 in which the borrower paid an
3 amount from the balance of a
4 loan made under this part earlier
5 than required under the applica-
6 ble repayment plan, 10 percent-
7 age points of such amount; and

8 “(cc) with respect to a bor-
9 rower whose income, as deter-
10 mined under subclause (II), was
11 more than \$95,000 in the taxable
12 year in which the borrower paid
13 an amount from the balance of a
14 loan made under this part earlier
15 than required under the applica-
16 ble repayment plan, 5 percentage
17 points of such amount.

18 “(II) INCOME DETERMINA-
19 TION.—For purposes of subclause (I),
20 a borrower’s income is equal to the
21 amount of the gross income of the
22 borrower for the taxable year that ex-
23 ceeds \$10,000 (adjusted each year to
24 reflect changes in the Consumer Price
25 Index for All Urban Consumers pub-

1 lished by the Bureau of Labor Statis-
 2 tics for the Department of Labor for
 3 the most recent 12-month period for
 4 which such data are available).

5 “(D) METHODOLOGY OF PAYMENT.—The
 6 Secretary shall establish an amortization sched-
 7 ule for the repayment of financing fees charged
 8 under this subsection.

9 “(4) RULEMAKING FOR CONSOLIDATION.—Not
 10 later than 18 months after the date of enactment of
 11 the LOAN Act of 2019, the Secretary shall promul-
 12 gate rules regarding Federal Direct Consolidation
 13 Loans made under this part in accordance with this
 14 subsection, including a rule that the financing fee
 15 for such a Federal Direct Consolidation Loan deter-
 16 mined in accordance with this subsection shall not
 17 exceed the sum of the financing fees applicable to
 18 the consolidated loans.”.

19 **SEC. 3. INCOME DEPENDENT EDUCATION ASSISTANCE RE-**
 20 **PAYMENT PLAN.**

21 Part D of title IV of the Higher Education Act of
 22 1965 (20 U.S.C. 1087a et seq.) is amended by adding at
 23 the end the following:

1 **“SEC. 460A. INCOME DEPENDENT EDUCATION ASSISTANCE**
2 **REPAYMENT PLAN.**

3 “(a) IN GENERAL.—

4 “(1) APPLICABILITY.—Notwithstanding any
5 other provision of this Act, with respect to any loan
6 made under this part after the date of enactment of
7 the LOAN Act of 2019, the repayment plan options
8 are only a 10-year fixed repayment plan and the re-
9 payment plan under this section. If the borrower of
10 the loan does not select a repayment plan, the repay-
11 ment of such loan shall be made in accordance with
12 this section. A borrower of a loan made under this
13 part after the date of enactment of the LOAN Act
14 of 2019 may affirmatively select the repayment plan
15 under this section.

16 “(2) REGULATIONS.—Not later than 18 months
17 after the date of enactment of the LOAN Act of
18 2019, the Secretary shall promulgate rules—

19 “(A) outlining how the Department will
20 implement the income dependent education as-
21 sistance repayment plan requirements for bor-
22 rowers under this section; and

23 “(B) regarding monthly repayment proc-
24 esses for borrowers of loans made under this
25 part before the date of enactment of the LOAN
26 Act of 2019.

1 “(3) RULE OF CONSTRUCTION.—Nothing in
2 this section shall be construed to eliminate or other-
3 wise affect the loan forgiveness or loan cancellation
4 options available under this part to a borrower.

5 “(b) DUTIES OF THE SECRETARY OF THE TREAS-
6 URY.—

7 “(1) IN GENERAL.—The Secretary of the
8 Treasury shall, with respect to each individual for
9 whom a loan made under this part after the date of
10 enactment of the LOAN Act of 2019 is in repay-
11 ment status, transmit to the Secretary of Edu-
12 cation—

13 “(A) in the case of such an individual who
14 files an income tax return for such taxable year,
15 such tax information as is necessary to deter-
16 mine the individual’s repayment obligation and
17 financing fee adjustments, as determined by the
18 Secretary under this part; and

19 “(B) in the case of any such individual
20 who does not file a return for such taxable year,
21 any available tax information of the individual
22 as may be necessary to determine such obliga-
23 tion and whether such individual is delinquent
24 under the terms of such loan for not so filing.

1 “(2) ADDITIONAL PROGRAM REQUIREMENTS.—

2 The Secretary of the Treasury shall establish such
3 other policies, procedures, and guidance as may be
4 necessary to carry out the purposes of this section,
5 including measures to prevent underreporting and
6 evasion of repayment or filing.

7 “(c) DUTIES OF THE SECRETARY OF EDUCATION.—

8 “(1) IN GENERAL.—The Secretary shall carry
9 out, as part of the loan repayment plan established
10 under this section, the following activities:

11 “(A) CALCULATION OF ANNUAL REPAY-
12 MENT AMOUNTS.—The Secretary shall calculate
13 the annual repayment amount under this sec-
14 tion for borrowers with 1 or more loans made
15 under this part after the date of enactment of
16 the LOAN Act of 2019 in repayment status for
17 one or more months in the taxable year for
18 which the amount is determined regardless of
19 which repayment plan the borrower is in, in-
20 cluding the repayment obligations of such bor-
21 rowers in accordance with subsection (d)(3).

22 “(B) COMMUNICATION WITH THE SEC-
23 RETARY OF THE TREASURY.—The Secretary
24 shall transmit to the Secretary of the Treasury
25 such information as is necessary for the Sec-

1 retary of the Treasury to carry out subsection
2 (d)(3).

3 “(C) ANNUAL STATEMENTS.—Upon calcu-
4 lating the annual repayment amounts under
5 subparagraph (A) for a taxable year, the Sec-
6 retary shall provide a statement, on an annual
7 basis, to each borrower with a loan made under
8 this part after the date of enactment of the
9 LOAN Act of 2019 regardless of which repay-
10 ment plan the borrower is in, which lists the
11 following:

12 “(i) Total payments made on the bor-
13 rower’s annual repayment amount for such
14 taxable year.

15 “(ii) The borrower’s annual repay-
16 ment amount for such taxable year.

17 “(iii) The outstanding balances on all
18 the loans made to the borrower under this
19 part after the date of enactment of the
20 LOAN Act of 2019 and any other out-
21 standing balances on loans of the borrower
22 that were made, insured, or guaranteed
23 under this title.

1 “(iv) A description of how the bor-
2 rower’s annual repayment amount was cal-
3 culated.

4 “(D) PAYMENTS ON A BORROWER’S BE-
5 HALF.—The Secretary shall—

6 “(i) provide a mechanism for other in-
7 dividuals or entities to make payments on
8 the annual repayment amount of a bor-
9 rower for a taxable year; and

10 “(ii) notify the borrower that any pay-
11 ments made under clause (i) for the tax-
12 able year that exceed the annual repay-
13 ment amount for the year shall not be re-
14 funded to the borrower.

15 “(E) APPEALS PROCESS.—

16 “(i) IN GENERAL.—The Secretary
17 shall make available a process through
18 which a borrower can appeal the calcula-
19 tion of the borrower’s annual repayment
20 amount, including a worksheet that en-
21 ables a borrower to calculate the bor-
22 rower’s annual repayment amount.

23 “(ii) GOOD STANDING.—A borrower
24 who makes an appeal under clause (i) with
25 respect to a loan shall be considered in

1 good standing on such loan during the du-
 2 ration of the appeal.

3 “(iii) REGULATIONS.—The Secretary
 4 shall issue regulations outlining such proc-
 5 ess not later than 18 months after the date
 6 of enactment of the LOAN Act of 2019.

7 “(F) DELINQUENT FOR FAILURE TO FILE
 8 A RETURN.—

9 “(i) IN GENERAL.—In a case in which
 10 the Secretary receives information from
 11 the Secretary of the Treasury under sub-
 12 section (b) that a borrower with a loan
 13 made under this part after the date of en-
 14 actment of the LOAN Act of 2019 in re-
 15 payment status in the repayment plan
 16 under this section, has failed to file a re-
 17 turn under section 6012(a)(1) of the Inter-
 18 nal Revenue Code of 1986 and such bor-
 19 rower was required to file such a return,
 20 the Secretary shall—

21 “(I) notify the borrower of the
 22 borrower’s failure to file such a re-
 23 turn; and

24 “(II) if the borrower fails to file
 25 such a return within 90 days of re-

1 ceipt of the notice described in sub-
2 clause (I), consider the borrower's
3 loans made under this part after the
4 date of enactment of the LOAN Act
5 of 2019 in repayment status in the re-
6 payment plan under this section to be
7 delinquent.

8 “(ii) APPEALS PROCESS.—The Sec-
9 retary shall make available a process
10 through which a borrower can appeal a de-
11 termination under clause (i) that the bor-
12 rower has failed to file a return under sec-
13 tion 6012(a)(1) of the Internal Revenue
14 Code of 1986 and such borrower was re-
15 quired to file such a return. The Secretary
16 shall issue regulations outlining such proc-
17 ess not later than 18 months after the date
18 of enactment of the LOAN Act of 2019.

19 “(G) MONTHLY PAYMENTS PROCESS.—The
20 Secretary shall—

21 “(i) establish a monthly payments
22 process described in paragraph (2); and

23 “(ii) issue regulations establishing
24 penalties for default on such monthly pay-
25 ments.

1 “(H) CALCULATING LOAN FORGIVENESS.—

2 The Secretary shall determine appropriate loan
3 forgiveness options for students who select the
4 repayment plan under this section.

5 “(I) FINANCIAL HARDSHIPS.—

6 “(i) IN GENERAL.—The Secretary
7 shall establish a process for providing an
8 adjustment in both the monthly payment
9 and annual repayment amount obligations
10 on a loan for a borrower experiencing ex-
11 treme unforeseen financial circumstances
12 unrelated to a change in annual income.

13 “(ii) REPAYMENT STATUS.—A bor-
14 rower who receives an adjustment under
15 clause (i) for a loan shall be deemed in re-
16 payment status with respect to such loan.

17 “(2) MONTHLY PAYMENTS PROCESS.—

18 “(A) IN GENERAL.—The Secretary shall
19 establish a process under which a borrower, or
20 one making payments on behalf of a borrower
21 under paragraph (1)(D), shall make monthly
22 payments towards the borrower’s annual repay-
23 ment amount.

24 “(B) INFORMATION REQUIRED.—The pro-
25 cedure for initiating the monthly payments

1 process under subparagraph (A) shall include
 2 an income estimate based on the income
 3 verification provided by the Secretary of the
 4 Treasury under subsection (b).

5 “(C) AUTOMATIC CONTINUATION.—The
 6 monthly payments process shall continue until
 7 the borrower’s loans made under this part after
 8 the date of enactment of the LOAN Act of
 9 2019 are repaid.

10 “(D) UPDATING PAYMENT AMOUNTS.—

11 “(i) SECRETARY.—The Secretary
 12 shall automatically recalculate a borrower’s
 13 monthly payment amount—

14 “(I) at the beginning of a new
 15 taxable year using the most recent in-
 16 come estimate provided under sub-
 17 section (b)(1) by the Secretary of the
 18 Treasury; and

19 “(II) not later than 30 days after
 20 the date the borrower’s income esti-
 21 mate is adjusted after an appeal
 22 under paragraph (1)(E).

23 “(ii) BORROWER.—A borrower may
 24 request that the Secretary update the bor-
 25 rower’s income estimate to adjust monthly

1 payment amounts pursuant to subpara-
2 graph (E) or (I) of paragraph (1) at any
3 time.

4 “(d) BORROWER REPAYMENT.—

5 “(1) REPAYMENT PERIOD.—The repayment pe-
6 riod of a loan in the repayment plan under this sec-
7 tion shall—

8 “(A) begin on the first day of the first tax-
9 able year that begins after the borrower’s in-
10 school deferment period; and

11 “(B) continue until the loan is paid in full,
12 except that the Secretary may grant a borrower
13 deferment of the borrower’s annual repayment
14 amount—

15 “(i) for a period not to exceed 60
16 days, due to administrative or technical
17 reasons;

18 “(ii) for a period not to exceed 3
19 months, due to unusual circumstances that
20 disrupt the borrower’s ability to make
21 timely payments on the loan; or

22 “(iii) renewable at 12-month intervals
23 for a period not to exceed 3 years, due to
24 documented extreme economic hardship on
25 the part of a borrower.

1 “(2) PREPAYMENT AUTHORIZED.—A borrower
 2 shall have the right to prepay all or part of such
 3 loan, at any time and without penalty. Any such pre-
 4 payment amount shall be applied in accordance with
 5 section 455(r)(3)(C).

6 “(3) DETERMINATION OF INCOME-BASED RE-
 7 PAYMENT OBLIGATION.—

8 “(A) IN GENERAL.—The repayment obliga-
 9 tion under this section with respect to an indi-
 10 vidual for any taxable year is an amount equal
 11 to 10 percent of the amount of the gross in-
 12 come of the borrower for the taxable year that
 13 exceeds the exemption amount under subpara-
 14 graph (C).

15 “(B) EXCLUSION OF CERTAIN AMOUNTS
 16 PAID ON BEHALF OF INDIVIDUAL.—Any
 17 amount paid on the borrower’s behalf under
 18 subsection (c)(1)(D) shall not be taken into ac-
 19 count in determining such borrower’s income-
 20 based repayment obligation.

21 “(C) EXEMPTION AMOUNT.—For purposes
 22 of this section, the exemption amount with re-
 23 spect to an individual shall be \$10,000 (ad-
 24 justed each year to reflect changes in the Con-
 25 sumer Price Index for All Urban Consumers

1 published by the Bureau of Labor Statistics of
2 the Department of Labor for the most recent
3 12-month period for which such data are avail-
4 able).

5 “(D) INDIVIDUALS NOT FILING A RE-
6 TURN.—The income-based repayment obligation
7 with respect to an individual not required to file
8 a return under section 6012(a)(1) of the Inter-
9 nal Revenue Code of 1986 shall be treated as
10 zero.”.

○