IN THE SENATE OF THE UNITED STATES

Mr. Rubio introduced the following bill; which was read twice and referred to the Committee on __________________

A BILL

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Leveraging Opportunities for Americans Now Act of 2021” or the “LOAN Act of 2021”.
SEC. 2. ELIMINATION OF INTEREST AND REPLACEMENT WITH FINANCING FEES.

Section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e) is amended by adding at the end the following:

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

“(1) IN GENERAL.—

“(A) IN GENERAL.—Except as provided under subparagraph (B), beginning on July 1, 2022, the Secretary shall make loans under this part in accordance with this subsection.

“(B) EXCEPTION.—Beginning on July 1, 2022, the Secretary shall make loans under this part in accordance with the provisions of this part other than this subsection to a borrower who—

“(i) was enrolled in an institution of higher education on June 30, 2022; and

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

“(2) ELIMINATION OF INTEREST.—For loans made under this part in accordance with this subsection for which the first disbursement is made on
or after July 1, 2022, the applicable rate of interest shall be equal to 0 percent.

“(3) Financing Fees.—

“(A) In General.—Beginning on July 1, 2022, the Secretary shall charge the borrower of a loan made under this part in accordance with this subsection a financing fee determined in accordance with this paragraph and issued on the date the loan is dispersed.

“(B) Determination of Fee.—The financing fee for a borrower of a loan made under this part—

“(i) that is used for enrollment in an undergraduate course of study (except a Federal Direct PLUS Loan made on behalf of a dependent student), shall be equal to, from the principal amount of the loan, 20 percent of the amount of such loan;

“(ii) that is used for enrollment in a course of study necessary for enrollment in a program leading to a degree or certificate, shall be equal to, from the principal amount of the loan, 20 percent of the 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, 20 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, 35 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.—
“(I) IN GENERAL.—Not later than 9 months after the date of enactment of the LOAN Act of 2021, the Secretary shall promulgate regulations establishing the methodology for crediting or refunding a financing fee charged under this subsection pursuant to clause (i). Such credit or refund shall not reduce the financing fee by more than—

“(aa) with respect to a borrower whose income, as determined under subclause (II), was not more than $45,000 in the taxable year in which the borrower paid an amount from the balance of a loan made under this part earlier than required under the applicable repayment plan, 15 percentage points of such amount;

“(bb) with respect to a borrower whose income, as determined under subclause (II), was more than $45,000 but not more
than $95,000 in the taxable year in which the borrower paid an amount from the balance of a loan made under this part earlier than required under the applicable repayment plan, 10 percentage points of such amount; and“(cc) with respect to a borrower whose income, as determined under subclause (II), was more than $95,000 in the taxable year in which the borrower paid an amount from the balance of a loan made under this part earlier than required under the applicable repayment plan, 5 percentage points of such amount.

“(II) INCOME DETERMINATION.—For purposes of subclause (I), a borrower’s income is equal to the amount by which—

“(aa) the borrower’s, and the borrower’s spouse’s (if applicable), adjusted gross income; ex-
“(bb) 150 percent of the poverty line applicable to the borrower’s family size as determined under section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

“(D) METHODOLOGY OF PAYMENT.—The Secretary shall establish an amortization schedule for the repayment of financing fees charged under this subsection.

“(4) RULEMAKING FOR CONSOLIDATION.—Not later than 18 months after the date of enactment of the LOAN Act of 2021, the Secretary shall promulgate rules regarding Federal Direct Consolidation Loans made under this part in accordance with this subsection, including a rule that the financing fee for such a Federal Direct Consolidation Loan determined in accordance with this subsection shall not exceed the sum of the financing fees applicable to the consolidated loans.”.

SEC. 3. INCOME DEPENDENT EDUCATION ASSISTANCE REPAYMENT PLAN.

Part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) is amended by adding at the end the following:
“SEC. 460A. INCOME DEPENDENT EDUCATION ASSISTANCE REPAYMENT PLAN.

“(a) In General.—

“(1) Applicability.—Notwithstanding any other provision of this Act, with respect to any loan made under this part after the date of enactment of the LOAN Act of 2021, the repayment plan options are only a 10-year fixed repayment plan and the repayment plan under this section. If the borrower of the loan does not select a repayment plan, the repayment of such loan shall be made in accordance with this section. A borrower of a loan made under this part after the date of enactment of the LOAN Act of 2021 may affirmatively select the repayment plan under this section.

“(2) Regulations.—Not later than 18 months after the date of enactment of the LOAN Act of 2021, the Secretary shall promulgate rules—

“(A) outlining how the Department will implement the income dependent education assistance repayment plan requirements for borrowers under this section; and

“(B) regarding monthly repayment processes for borrowers of loans made under this part before the date of enactment of the LOAN Act of 2021.
“(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to eliminate or otherwise affect the loan forgiveness or loan cancellation options available under this part to a borrower.

“(b) DUTIES OF THE SECRETARY OF THE TREASURY.—

“(1) IN GENERAL.—The Secretary of the Treasury shall, with respect to each individual for whom a loan made under this part after the date of enactment of the LOAN Act of 2021 is in repayment status, transmit to the Secretary of Education—

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

“(B) in the case of any such individual who does not file a return for such taxable year, any available tax information of the individual as may be necessary to determine such obligation and whether such individual is delinquent under the terms of such loan for not so filing.
“(2) ADDITIONAL PROGRAM REQUIREMENTS.—

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

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

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

“(A) CALCULATION OF ANNUAL REPAY-
MENT AMOUNTS.—The Secretary shall calculate
the annual repayment amount under this sec-
tion for borrowers with 1 or more loans made
under this part after the date of enactment of
the LOAN Act of 2021 in repayment status for
one or more months in the taxable year for
which the amount is determined regardless of
which repayment plan the borrower is in, in-
cluding the repayment obligations of such bor-
rowers in accordance with subsection (d)(3).

“(B) COMMUNICATION WITH THE SEC-
RETARY OF THE TREASURY.—The Secretary
shall transmit to the Secretary of the Treasury
such information as is necessary for the Sec-
retary of the Treasury to carry out subsection (d)(3).

“(C) Annual statements.—Upon calculating the annual repayment amounts under subparagraph (A) for a taxable year, the Secretary shall provide a statement, on an annual basis, to each borrower with a loan made under this part after the date of enactment of the LOAN Act of 2021 regardless of which repayment plan the borrower is in, which lists the following:

“(i) Total payments made on the borrower’s annual repayment amount for such taxable year.

“(ii) The borrower’s annual repayment amount for such taxable year.

“(iii) The outstanding balances on all the loans made to the borrower under this part after the date of enactment of the LOAN Act of 2021 and any other outstanding balances on loans of the borrower that were made, insured, or guaranteed under this title.
“(iv) A description of how the borrower’s annual repayment amount was calculated.

“(D) Payments on a borrower’s behalf.—

“(i) In general.—The Secretary shall—

“(I) provide a mechanism for other individuals or entities to make payments on the annual repayment amount of a borrower for a taxable year; and

“(II) notify the borrower that any payments made under subclause (I) for the taxable year that exceed the annual repayment amount for the year shall not be refunded to the borrower, except as provided through the appeals process described in clause (ii).

“(ii) Appeals process.—The Secretary shall make available a process through which a borrower can appeal for refund of payments made under clause (i) that exceed the annual repayment amount
for the year if such payments were made pursuant to improper wage garnishment.

“(E) APPEALS PROCESS.—

“(i) IN GENERAL.—The Secretary shall make available a process through which a borrower can appeal the calculation of the borrower’s annual repayment amount, including a worksheet that enables a borrower to calculate the borrower’s annual repayment amount.

“(ii) GOOD STANDING.—A borrower who makes an appeal under clause (i) with respect to a loan shall be considered in good standing on such loan during the duration of the appeal.

“(iii) REGULATIONS.—The Secretary shall issue regulations outlining such process not later than 18 months after the date of enactment of the LOAN Act of 2021.

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

“(i) IN GENERAL.—In a case in which the Secretary receives information from the Secretary of the Treasury under subsection (b) that a borrower with a loan
made under this part after the date of enactment of the LOAN Act of 2021 in repayment status in the repayment plan under this section, has failed to file a return under section 6012(a)(1) of the Internal Revenue Code of 1986 and such borrower was required to file such a return, the Secretary shall—

“(I) notify the borrower of the borrower’s failure to file such a return; and

“(II) if the borrower fails to file such a return within 90 days of receipt of the notice described in subclause (I), consider the borrower’s loans made under this part after the date of enactment of the LOAN Act of 2021 in repayment status in the repayment plan under this section to be delinquent.

“(ii) APPEALS PROCESS.—The Secretary shall make available a process through which a borrower can appeal a determination under clause (i) that the borrower has failed to file a return under sec-
tion 6012(a)(1) of the Internal Revenue Code of 1986 and such borrower was required to file such a return. The Secretary shall issue regulations outlining such process not later than 18 months after the date of enactment of the LOAN Act of 2021.

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

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

“(ii) issue regulations establishing penalties for default on such monthly payments.

“(H) CALCULATING LOAN FORGIVENESS.—The Secretary shall determine appropriate loan forgiveness options for students who select the repayment plan under this section.

“(I) FINANCIAL HARDSHIPS.—

“(i) IN GENERAL.—The Secretary shall establish a process for providing an adjustment in both the monthly payment and annual repayment amount obligations on a loan for a borrower experiencing extreme unforeseen financial circumstances unrelated to a change in annual income.
“(ii) Repayment Status.—A borrower who receives an adjustment under clause (i) for a loan shall be deemed in repayment status with respect to such loan.

“(2) Monthly Payments Process.—

“(A) In general.—The Secretary shall establish a process under which a borrower, or one making payments on behalf of a borrower under paragraph (1)(D), shall make monthly payments towards the borrower’s annual repayment amount.

“(B) Information Required.—The procedure for initiating the monthly payments process under subparagraph (A) shall include an income estimate based on the income verification provided by the Secretary of the Treasury under subsection (b).

“(C) Automatic Continuation.—The monthly payments process shall continue until the borrower’s loans made under this part after the date of enactment of the LOAN Act of 2021 are repaid.

“(D) Updating Payment Amounts.—
“(i) Secretary.—The Secretary shall automatically recalculate a borrower’s monthly payment amount—

“(I) at the beginning of a new taxable year using the most recent income estimate provided under subsection (b)(1) by the Secretary of the Treasury; and

“(II) not later than 30 days after the date the borrower’s income estimate is adjusted after an appeal under paragraph (1)(E).

“(ii) Borrower.—A borrower may request that the Secretary update the borrower’s income estimate to adjust monthly payment amounts pursuant to subparagraph (E) or (I) of paragraph (1) at any time.

“(d) Borrower Repayment.—

“(1) Repayment period.—The repayment period of a loan in the repayment plan under this section shall—

“(A) begin on the first day of the first taxable year that begins after the borrower’s in-school deferment period; and
“(B) continue until the loan is paid in full, except that the Secretary may grant a borrower deferment of the borrower’s annual repayment amount—

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

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

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

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

“(3) DETERMINATION OF INCOME-BASED REPAYMENT OBLIGATION.—

“(A) IN GENERAL.—The repayment obligation under this section with respect to an indi-
individual for any taxable year is an amount equal to 10 percent of the amount by which—

“(i) the individual’s, and the individual’s spouse’s (if applicable), adjusted gross income; exceeds

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

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

“(C) INDIVIDUALS NOT FILING A RETURN.—The income-based repayment obligation with respect to an individual not required to file a return under section 6012(a)(1) of the Internal Revenue Code of 1986 shall be treated as zero.”.