

117TH CONGRESS
1ST SESSION

S. _____

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

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.

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 2021” or the “LOAN Act
6 of 2021”.

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 2022, the Secretary shall make loans under this
12 part in accordance with this subsection.

13 “(B) **EXCEPTION.—**Beginning on July 1,
14 2022, 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, 2022; 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, 2022, 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 2022, 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 20 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, 20 percent of the
24 amount of such loan;

1 “(iii) that is used for enrollment in a
2 program that is necessary for a profes-
3 sional credential or certification from a
4 State that is required for employment as a
5 teacher in an elementary or secondary
6 school in that State, shall be equal to,
7 from the principal amount of the loan, 20
8 percent of the amount of such loan; and

9 “(iv) that is a Federal Direct PLUS
10 Loan made on behalf of a dependent stu-
11 dent or used for enrollment in a graduate
12 or professional course of study, shall be
13 equal to, from the principal amount of the
14 loan, 35 percent of the amount of such
15 loan.

16 “(C) REDUCTION DUE TO PREPAYMENT.—

17 “(i) IN GENERAL.—In order to pro-
18 vide an incentive to borrowers to pay the
19 balance of a loan made under this part
20 earlier than required under the applicable
21 repayment plan, the Secretary may credit
22 or refund any such borrowers for an
23 amount of the financing fee charged under
24 this subsection.

25 “(ii) REGULATIONS.—

1 “(I) IN GENERAL.—Not later
2 than 9 months after the date of enact-
3 ment of the LOAN Act of 2021, 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 by which—

22 “(aa) the borrower’s, and
23 the borrower’s spouse’s (if appli-
24 cable), adjusted gross income; ex-
25 ceeds

1 “(bb) 150 percent of the
2 poverty line applicable to the bor-
3 rower’s family size as determined
4 under section 673(2) of the Com-
5 munity Services Block Grant Act
6 (42 U.S.C. 9902(2)).

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

11 “(4) RULEMAKING FOR CONSOLIDATION.—Not
12 later than 18 months after the date of enactment of
13 the LOAN Act of 2021, the Secretary shall promul-
14 gate rules regarding Federal Direct Consolidation
15 Loans made under this part in accordance with this
16 subsection, including a rule that the financing fee
17 for such a Federal Direct Consolidation Loan deter-
18 mined in accordance with this subsection shall not
19 exceed the sum of the financing fees applicable to
20 the consolidated loans.”.

21 **SEC. 3. INCOME DEPENDENT EDUCATION ASSISTANCE RE-**
22 **PAYMENT PLAN.**

23 Part D of title IV of the Higher Education Act of
24 1965 (20 U.S.C. 1087a et seq.) is amended by adding at
25 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 2021, 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 2021 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 2021, 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 2021.

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 2021 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 2021 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 2021 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 2021 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.—

6 “(i) IN GENERAL.—The Secretary
7 shall—

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

13 “(II) notify the borrower that
14 any payments made under subclause
15 (I) for the taxable year that exceed
16 the annual repayment amount for the
17 year shall not be refunded to the bor-
18 rower, except as provided through the
19 appeals process described in clause
20 (ii).

21 “(ii) APPEALS PROCESS.—The Sec-
22 retary shall make available a process
23 through which a borrower can appeal for
24 refund of payments made under clause (i)
25 that exceed the annual repayment amount

1 for the year if such payments were made
2 pursuant to improper wage garnishment.

3 “(E) APPEALS PROCESS.—

4 “(i) IN GENERAL.—The Secretary
5 shall make available a process through
6 which a borrower can appeal the calcula-
7 tion of the borrower’s annual repayment
8 amount, including a worksheet that en-
9 ables a borrower to calculate the bor-
10 rower’s annual repayment amount.

11 “(ii) GOOD STANDING.—A borrower
12 who makes an appeal under clause (i) with
13 respect to a loan shall be considered in
14 good standing on such loan during the du-
15 ration of the appeal.

16 “(iii) REGULATIONS.—The Secretary
17 shall issue regulations outlining such proc-
18 ess not later than 18 months after the date
19 of enactment of the LOAN Act of 2021.

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

22 “(i) IN GENERAL.—In a case in which
23 the Secretary receives information from
24 the Secretary of the Treasury under sub-
25 section (b) that a borrower with a loan

1 made under this part after the date of en-
2 actment of the LOAN Act of 2021 in re-
3 payment status in the repayment plan
4 under this section, has failed to file a re-
5 turn under section 6012(a)(1) of the Inter-
6 nal Revenue Code of 1986 and such bor-
7 rower was required to file such a return,
8 the Secretary shall—

9 “(I) notify the borrower of the
10 borrower’s failure to file such a re-
11 turn; and

12 “(II) if the borrower fails to file
13 such a return within 90 days of re-
14 ceipt of the notice described in sub-
15 clause (I), consider the borrower’s
16 loans made under this part after the
17 date of enactment of the LOAN Act
18 of 2021 in repayment status in the re-
19 payment plan under this section to be
20 delinquent.

21 “(ii) APPEALS PROCESS.—The Sec-
22 retary shall make available a process
23 through which a borrower can appeal a de-
24 termination under clause (i) that the bor-
25 rower has failed to file a return under sec-

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

5 “(2) MONTHLY PAYMENTS PROCESS.—

6 “(A) IN GENERAL.—The Secretary shall
7 establish a process under which a borrower, or
8 one making payments on behalf of a borrower
9 under paragraph (1)(D), shall make monthly
10 payments towards the borrower’s annual repay-
11 ment amount.

12 “(B) INFORMATION REQUIRED.—The pro-
13 cedure for initiating the monthly payments
14 process under subparagraph (A) shall include
15 an income estimate based on the income
16 verification provided by the Secretary of the
17 Treasury under subsection (b).

18 “(C) AUTOMATIC CONTINUATION.—The
19 monthly payments process shall continue until
20 the borrower’s loans made under this part after
21 the date of enactment of the LOAN Act of
22 2021 are repaid.

23 “(D) UPDATING PAYMENT AMOUNTS.—

1 “(i) SECRETARY.—The Secretary
2 shall automatically recalculate a borrower’s
3 monthly payment amount—

4 “(I) at the beginning of a new
5 taxable year using the most recent in-
6 come estimate provided under sub-
7 section (b)(1) by the Secretary of the
8 Treasury; and

9 “(II) not later than 30 days after
10 the date the borrower’s income esti-
11 mate is adjusted after an appeal
12 under paragraph (1)(E).

13 “(ii) BORROWER.—A borrower may
14 request that the Secretary update the bor-
15 rower’s income estimate to adjust monthly
16 payment amounts pursuant to subpara-
17 graph (E) or (I) of paragraph (1) at any
18 time.

19 “(d) BORROWER REPAYMENT.—

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

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

1 “(B) continue until the loan is paid in full,
2 except that the Secretary may grant a borrower
3 deferment of the borrower’s annual repayment
4 amount—

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

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

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

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

21 “(3) DETERMINATION OF INCOME-BASED RE-
22 PAYMENT OBLIGATION.—

23 “(A) IN GENERAL.—The repayment obliga-
24 tion under this section with respect to an indi-

1 vidual for any taxable year is an amount equal
2 to 10 percent of the amount by which—

3 “(i) the individual’s, and the individ-
4 ual’s spouse’s (if applicable), adjusted
5 gross income; exceeds

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

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

17 “(C) INDIVIDUALS NOT FILING A RE-
18 TURN.—The income-based repayment obligation
19 with respect to an individual not required to file
20 a return under section 6012(a)(1) of the Inter-
21 nal Revenue Code of 1986 shall be treated as
22 zero.”.