

114TH CONGRESS
1ST SESSION

S. 1948

To increase awareness of the Federal student loan income-based repayment plan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2015

Mr. MERKLEY introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To increase awareness of the Federal student loan income-based 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 “Access to Fair Finan-
5 cial Options for Repaying Debt Act of 2015” or the “AF-
6 FORD Act”.

1 **SEC. 2. NOTICE OF REPAYMENT PLAN OPTIONS AT THE**
 2 **TIME OF ENTRANCE COUNSELING.**

3 Section 485(l)(2) of the Higher Education Act of
 4 1965 (20 U.S.C. 1092(l)(2)) is amended by adding at the
 5 end the following:

6 “(L) Information on the 2 repayment op-
 7 tions that the borrower of a loan made on or
 8 after July 1, 2016, will have for repaying the
 9 loan, including—

10 “(i) an income-based repayment plan,
 11 as described under section 493C(f); and

12 “(ii) a fixed repayment plan described
 13 in section 493E.”.

14 **SEC. 3. ANNUAL LOAN COUNSELING.**

15 Section 485 of the Higher Education Act of 1965 (20
 16 U.S.C. 1092) is amended by adding at the end the fol-
 17 lowing:

18 “(n) ANNUAL LOAN COUNSELING.—

19 “(1) INVITATION.—Each institution of higher
 20 education participating in any program under this
 21 title shall annually provide each student described in
 22 paragraph (3) with a written notification (which
 23 may be in electronic form) inviting the student to at-
 24 tend financial counseling described in paragraph (2).

25 “(2) CONTENTS OF ANNUAL LOAN COUN-
 26 SELING.—The counseling described in paragraph (1)

1 may be provided in person or via telephone or elec-
2 tronic form, and shall include each of the following:

3 “(A) Information on each student loan
4 that the institution is aware that the student
5 has borrowed, including Federal loans, private
6 loans, and loans from the institution.

7 “(B) The total amount of the cumulative
8 student loan debt from the loans described in
9 subparagraph (A).

10 “(C) The student’s estimated monthly re-
11 payment amount for Federal loans, which shall
12 include—

13 “(i) estimates based on each applica-
14 ble debt bracket for the fixed repayment
15 plan described under section 493E; and

16 “(ii) an additional estimate based on
17 the income-based repayment plan described
18 under section 493C(f), calculated on the
19 basis of a hypothetical income and a family
20 size of 1.

21 “(D) A statement that the monthly
22 amount described in subparagraph (C) does not
23 include any amounts that the student may be
24 required to repay for private or institutional
25 loans.

1 “(E) For each Federal loan described in
2 subparagraph (A), the interest rate for the
3 loan, as of the date of the counseling, and a
4 statement that the interest rate on student
5 loans may vary based on when the loan was
6 borrowed and other factors.

7 “(F) A notification that some students
8 may qualify for a Federal Pell Grant.

9 “(G) The percentage of the total aggregate
10 borrowing limit that the student has reached, as
11 of the date of the counseling, for Federal Direct
12 Stafford Loans and Federal Direct Unsub-
13 sidized Stafford Loans, and a statement that
14 such aggregate borrowing limit may change
15 based on the borrower’s student status (whether
16 undergraduate or graduate) or if there is a
17 change in the borrower’s dependency status.

18 “(H) Any information, including financial
19 planning resources, that the institution deter-
20 mines is appropriate to include in the coun-
21 seling.

22 “(I) A statement that the information pro-
23 vided through the counseling contains only esti-
24 mates and information relevant to the student
25 to the best of the institution’s knowledge.

1 “(3) STUDENTS RECEIVING NOTIFICATION.—

2 The notification described in paragraph (1) shall be
3 provided to each student—

4 “(A) who is enrolled in the institution; and

5 “(B) who is a student for which the insti-
6 tution has knowledge that the student has 1 or
7 more student loans, including any such loans
8 from another institution that a student may
9 have transferred from or been previously en-
10 rolled in.”.

11 **SEC. 4. INCOME-BASED REPAYMENT PLAN.**

12 Section 493C of the Higher Education Act of 1965
13 (20 U.S.C. 1098e) is amended—

14 (1) in subsection (b)—

15 (A) in paragraph (8), by striking “and”
16 after the semicolon;

17 (B) in paragraph (9), by striking the pe-
18 riod at the end and inserting “; and”; and

19 (C) by adding at the end the following:

20 “(10) a borrower who is repaying a loan made
21 under part B or D pursuant to this section may
22 repay such loan in full at any time without pen-
23 alty.”; and

24 (2) by adding at the end the following:

1 “(f) INCOME-BASED REPAYMENT FOR NEW LOANS
 2 ON AND AFTER JULY 1, 2016, AND FOR BORROWERS
 3 WHO ENTER IBR AFTER JULY 1, 2016.—

4 “(1) IN GENERAL.—The income-based repay-
 5 ment plan shall be carried out in accordance with
 6 this section, except as otherwise specified in this
 7 subsection (including through the special terms de-
 8 scribed in paragraph (2))—

9 “(A) with respect to any loan issued on or
 10 after July 1, 2016, if such borrower elects the
 11 income-based repayment plan for that loan; and

12 “(B) with respect to any borrower who is
 13 repaying a loan made, insured, or guaranteed
 14 under part B or D, if such borrower elects to
 15 repay the loan under the income-based repay-
 16 ment plan on or after July 1, 2016.

17 “(2) SPECIAL TERMS.—Notwithstanding any
 18 other provision of this section, with respect to a loan
 19 described under paragraph (1), the following terms
 20 shall apply to the income-based repayment plan:

21 “(A)(i) Notwithstanding subsection
 22 (a)(3)(B), the repayment amount under this
 23 subsection shall be an amount equal to 10 per-
 24 cent of the result obtained by calculating, on at
 25 least an annual basis, the amount by which—

1 “(I) the borrower’s, and the bor-
 2 rower’s spouse’s (if applicable), adjusted
 3 gross income; exceeds

4 “(II) the applicable percentage of the
 5 poverty line in accordance with clause (ii)
 6 that is applicable to the borrower’s family
 7 size as determined under section 673(2) of
 8 the Community Services Block Grant Act
 9 (42 U.S.C. 9902(2)).

10 “(ii) For purposes of clause (i), the term
 11 ‘applicable percentage’ means 150 percent re-
 12 duced by 1 percentage point for each \$1,000 by
 13 which the borrower’s adjusted gross income ex-
 14 ceeds \$100,000.

15 “(B) Subsection (b)(7)(B) shall be applied
 16 by substituting ‘20 years’ for ‘25 years’.

17 “(C) A borrower of such a loan shall not
 18 be required to have a partial financial hardship
 19 and may elect, and remain enrolled in, the in-
 20 come-based repayment plan under this sub-
 21 section regardless of income level.

22 “(D) Subparagraph (A) of subsection
 23 (b)(6) shall not apply and a borrower’s monthly
 24 payment shall be determined in accordance with
 25 subparagraph (A) divided by 12, which may ex-

ceed the monthly repayment amount under a standard 10-year repayment plan or a fixed repayment plan described in section 493E.

“(E) Subparagraph (B) of subsection (b)(3) shall not apply.

“(3) ADDITIONAL SPECIAL TERMS FOR CERTAIN BORROWERS.—A borrower described in paragraph (1)(B)—

“(A) may choose to retain the repayment plan in which the borrower is enrolled on June 30, 2016;

“(B) may elect to—

“(i) leave the repayment plan described in subparagraph (A) and enter the income-based repayment plan under this subsection;

“(ii) leave the repayment plan described in subparagraph (A) and enter a fixed repayment plan described in section 493E; or

“(iii) not more than once per calendar year, switch between the repayment plans described in clauses (i) and (ii);

“(C) after electing to leave a repayment plan other than an income-based repayment

plan described under this subsection or the fixed repayment plan described in section 493E, shall not be permitted to re-elect a repayment plan that is not an income-based repayment plan under this subsection or a fixed repayment plan described in section 493E; and

“(D) shall retain, for purposes of repayment or cancellation of any outstanding balance of principal and interest due on a loan (as described in subsection (b)(7)) any years of repayment under another income-based or income contingent repayment plan under this title.

“(4) CAP ON INTEREST ACCRUAL.—Notwithstanding any other provision of this Act, the total amount of interest that accrues during a borrower’s grace period and the time that a borrower is in repayment under this subsection shall not exceed 50 percent of the original principal amount of the loan.”.

SEC. 5. FIXED REPAYMENT PLAN.

Part G of title IV of the Higher Education Act of 1965 (20 U.S.C. 1088 et seq.) is amended by adding at the end the following:

1 **“SEC. 493E. FIXED REPAYMENT PLAN.**

2 “(a) IN GENERAL.—A borrower of a loan made under
3 this part on or after July 1, 2016, and a borrower who
4 is in repayment on a loan made under part B or part D
5 before July 1, 2016, may elect to repay such loan under
6 the fixed repayment plan described in this section.

7 “(b) FIXED REPAYMENT PLAN.—Under the fixed re-
8 payment plan, a borrower with a total Federal student
9 loan debt amount that—

10 “(1) is equal to or less than \$10,000, shall
11 repay each loan described in subsection (a) with a
12 fixed monthly repayment amount paid over a period
13 of 10 years;

14 “(2) is more than \$10,000 and less than
15 \$20,000, shall repay each loan described in sub-
16 section (a) with a fixed monthly repayment amount
17 paid over a period of—

18 “(A) 15 years; or

19 “(B) the period described in paragraph
20 (1), if the borrower chooses;

21 “(3) is equal to or greater than \$20,000, and
22 less than \$30,000, shall repay each loan described in
23 subsection (a) with a fixed monthly repayment
24 amount paid over a period of—

25 “(A) 20 years; or

1 “(B) the period described in paragraph (1)
2 or (2), if the borrower chooses; and

3 “(4) is equal to or greater than \$30,000, shall
4 repay each loan described in subsection (a) with a
5 fixed monthly repayment amount paid over a period
6 of—

7 “(A) 25 years; or

8 “(B) the period described in any of para-
9 graphs (1) through (3), if the borrower choos-
10 es.”.

11 **SEC. 6. COUNSELING FOR BORROWERS.**

12 Section 485 of the Higher Education Act of 1965 (20
13 U.S.C. 1092) is amended—

14 (1) in subsection (b)(1)(A)—

15 (A) in clause (iii), by inserting “on an an-
16 nual basis, in accordance with section
17 428(b)(1)(D)(ii) or paragraph (2) or (7) of sec-
18 tion 455(d) (as applicable)” after “repayment
19 plans”; and

20 (B) in clause (vii)(III), by inserting “on an
21 annual basis, in accordance with section
22 428(b)(1)(D)(ii) or paragraph (2) or (7) of sec-
23 tion 455(d) (as applicable)” after “repayment
24 plans”; and

1 (2) in subsection (d)(1), by striking “including
 2 income-sensitive” and all that follows through “part
 3 D” and inserting “including, beginning on July 1,
 4 2016, income-based repayment plans described in
 5 section 493C(f) and fixed repayment plans under
 6 section 493E”.

7 **SEC. 7. TERMINATION OF CERTAIN REPAYMENT PLAN OP-**
 8 **TIONS.**

9 (a) EFFECTIVE DATE; RULEMAKING REGARDING
 10 TERMINATION OF CERTAIN REPAYMENT PLANS.—

11 (1) EFFECTIVE DATE.—This Act, and the
 12 amendments made by this Act, shall take effect on
 13 July 1, 2016.

14 (2) REGULATIONS.—Before the effective date
 15 described in paragraph (1), the Secretary of Edu-
 16 cation shall carry out a plan to end all eligibility for
 17 repayment plans other than a fixed repayment plan
 18 described in section 493E and an income-based re-
 19 payment plan described under section 493C(f) for
 20 loans made under part B or D of title IV of the
 21 Higher Education Act of 1965, unless the borrower
 22 is enrolled in another repayment plan before such ef-
 23 fective date, in accordance with the amendments
 24 made by this Act.

25 (b) CHANGES TO CURRENT LAW.—

1 (1) Section 428(b) of the Higher Education Act
2 of 1965 (20 U.S.C. 1078(b)) is amended—

3 (A) in paragraph (1)—

4 (i) in subparagraph (D)—

5 (I) in clause (ii), by striking

6 “may annually change the selection of

7 a repayment plan under this part,”

8 and inserting “may at any time after

9 July 1, 2016, and not more frequently

10 than once per calendar year there-

11 after, change the selection of a repay-

12 ment plan under this part to one of

13 the 2 repayment plans described in

14 paragraph (9)(C),”; and

15 (II) in clause (iii), by striking

16 “be subject to income contingent re-

17 payment in accordance with sub-

18 section (m);” and inserting “be sub-

19 ject to income-based repayment in ac-

20 cordance with section 493C(f);”; and

21 (ii) in subparagraph (E)(i), by strik-

22 ing “the option of repaying the loan in ac-

23 cordance with a standard, graduated, in-

24 come-sensitive, or extended repayment

25 schedule (as described in paragraph (9))

1 established by the lender in accordance
 2 with regulations of the Secretary; and”
 3 and inserting “the option of repaying the
 4 loan in accordance with a repayment plan
 5 described in paragraph (9)(C) established
 6 by the lender in accordance with regula-
 7 tions of the Secretary; and”;

8 (B) in paragraph (9), by adding at the end
 9 the following:

10 “(C) SELECTION OF REPAYMENT PLANS
 11 ON AND AFTER JULY 1, 2016.—

12 “(i) OPPORTUNITY TO CHANGE RE-
 13 PAYMENT PLANS.—Notwithstanding any
 14 other provision of this paragraph, or any
 15 other provision of law, and in accordance
 16 with regulations, beginning on July 1,
 17 2016, the lender shall offer a borrower of
 18 a loan made, insured, or guaranteed under
 19 this part the opportunity to change repay-
 20 ment plans not more than once per cal-
 21 endar year, and to enroll in one of the fol-
 22 lowing repayment plans:

23 “(I) A fixed repayment plan de-
 24 scribed in section 493E.

1 “(II) The income-based repay-
 2 ment plan under section 493C(f).”;
 3 and

4 (2) in section 455(d)—

5 (A) by redesignating paragraphs (2)
 6 through (5) as paragraphs (3) through (6), re-
 7 spectively; and

8 (B) by inserting after paragraph (1), the
 9 following:

10 “(2) DESIGN AND SELECTION ON AND AFTER
 11 JULY 1, 2016.—

12 “(A) IN GENERAL.—Notwithstanding para-
 13 graph (1), for the borrower of a loan made on
 14 or after July 1, 2016, and for other borrowers
 15 subject to paragraph (7), the Secretary shall
 16 offer a borrower of a loan made under this part
 17 2 plans for repayment of such loan, including
 18 principal and interest on the loan. The borrower
 19 shall be entitled to accelerate, without penalty,
 20 repayment on the borrower’s loans under this
 21 part. The borrower may choose—

22 “(i) a fixed repayment plan described
 23 in section 493E; or

24 “(ii) the income-based repayment plan
 25 under section 493C(f).

1 “(B) SELECTION BY THE SECRETARY.—If
 2 a borrower of a loan made under this part on
 3 or after July 1, 2016, does not select a repay-
 4 ment plan described in subparagraph (A), the
 5 Secretary may provide the borrower with a
 6 fixed repayment plan described in section 493E.

7 “(C) CHANGES IN SELECTIONS.—Begin-
 8 ning on July 1, 2016, a borrower of a loan
 9 made under this part may change the bor-
 10 rower’s selection of a repayment plan in accord-
 11 ance with paragraph (7) and under such terms
 12 and conditions as may be established by the
 13 Secretary.

14 “(D) BORROWER IN DEFAULT.—Beginning
 15 on July 1, 2016, the Secretary may require any
 16 borrower who has defaulted on a loan made
 17 under this part to—

18 “(i) pay all reasonable collection costs
 19 associated with such loan; and

20 “(ii) repay the loan pursuant to an in-
 21 come-based repayment plan under section
 22 493C(f).”; and

23 (3) by adding at the end the following:

24 “(7) BORROWERS OF LOANS MADE BEFORE
 25 JULY 1, 2016.—A borrower who is in repayment on

1 a loan made under part B or part D before July 1,
2 2016—

3 “(A) may choose to retain the repayment
4 plan that the borrower was enrolled in on the
5 day before such date;

6 “(B) may elect to—

7 “(i) enter the income-based repayment
8 plan under section 493C(f);

9 “(ii) enter a fixed repayment plan de-
10 scribed in section 493E; or

11 “(iii) switch between the repayment
12 plans described in clauses (i) and (ii) not
13 more than once during a calendar year;

14 “(C) after electing to leave a repayment
15 plan other than an income-based repayment
16 plan described under this subsection or a fixed
17 repayment plan described in section 493E, shall
18 not be permitted to re-elect a repayment plan
19 that is not an income-based repayment plan
20 under this subsection or a fixed repayment plan
21 described in section 493E; and

22 “(D) shall retain, for purposes of repay-
23 ment or cancellation of any outstanding balance
24 of principal and interest due on a loan (as de-
25 scribed in section 493C(b)(7)) any years of re-

- 1 payment under another income-based or income
- 2 contingent repayment plan under this title.”.

○