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 Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the “Access to Fair Financial Options for Repaying Debt Act of 2015” or the “AF-FORD Act”.
SEC. 2. NOTICE OF REPAYMENT PLAN OPTIONS AT THE TIME OF ENTRANCE COUNSELING.

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

“(L) Information on the repayment options that the borrower of a loan made on or after July 1, 2016, will have for repaying the loan, including—

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

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

SEC. 3. ANNUAL LOAN COUNSELING.

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

“(n) ANNUAL LOAN COUNSELING.—

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

“(2) CONTENTS OF ANNUAL LOAN COUNSELING.—The counseling described in paragraph (1)
may be provided in person or via telephone or electronic form, and shall include each of the following:

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

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

“(C) The student’s estimated monthly repayment amount for Federal loans, which shall include—

“(i) estimates based on each applicable debt bracket for the fixed repayment plan described under section 493E; and

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

“(D) A statement that the monthly amount described in subparagraph (C) does not include any amounts that the student may be required to repay for private or institutional loans.
“(E) For each Federal loan described in subparagraph (A), the interest rate for the loan, as of the date of the counseling, and a statement that the interest rate on student loans may vary based on when the loan was borrowed and other factors.

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

“(G) The percentage of the total aggregate borrowing limit that the student has reached, as of the date of the counseling, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans, and a statement that such aggregate borrowing limit may change based on the borrower’s student status (whether undergraduate or graduate) or if there is a change in the borrower’s dependency status.

“(H) Any information, including financial planning resources, that the institution determines is appropriate to include in the counseling.

“(I) A statement that the information provided through the counseling contains only estimates and information relevant to the student to the best of the institution’s knowledge.
“(3) Students receiving notification.—

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

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

“(B) who is a student for which the institution has knowledge that the student has 1 or more student loans, including any such loans from another institution that a student may have transferred from or been previously enrolled in.”.

SEC. 4. INCOME-BASED REPAYMENT PLAN.

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

(1) in subsection (b)—

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

(B) in paragraph (9), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

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

(2) by adding at the end the following:
“(f) Income-Based Repayment for New Loans on and After July 1, 2016, and for Borrowers Who Enter IBR After July 1, 2016.—

“(1) In General.—The income-based repayment plan shall be carried out in accordance with this section, except as otherwise specified in this subsection (including through the special terms described in paragraph (2))—

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

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

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

“(A)(i) Notwithstanding subsection (a)(3)(B), the repayment amount under this subsection shall be an amount equal to 10 percent of the result obtained by calculating, on at least an annual basis, the amount by which—
“(I) the borrower’s, and the borrower’s spouse’s (if applicable), adjusted gross income; exceeds

“(II) the applicable percentage of the poverty line in accordance with clause (ii) that is 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)).

“(ii) For purposes of clause (i), the term ‘applicable percentage’ means 150 percent reduced by 1 percentage point for each $1,000 by which the borrower’s adjusted gross income exceeds $100,000.

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

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

“(D) Subparagraph (A) of subsection (b)(6) shall not apply and a borrower’s monthly payment shall be determined in accordance with 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
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 repay-
ment or cancellation of any outstanding balance
of principal and interest due on a loan (as de-
scribed in subsection (b)(7)) any years of repay-
ment under another income-based or income
contingent repayment plan under this title.

“(4) CAP ON INTEREST ACCRUAL.—Notwith-
standing 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 re-
payment 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:
“SEC. 493E. FIXED REPAYMENT PLAN.

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

“(b) Fixed Repayment Plan.—Under the fixed repayment plan, a borrower with a total Federal student loan debt amount that—

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

“(2) is more than $10,000 and less than $20,000, shall repay each loan described in subsection (a) with a fixed monthly repayment amount paid over a period of—

“(A) 15 years; or

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

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

“(A) 20 years; or
“(B) the period described in paragraph (1) or (2), if the borrower chooses; and
“(4) is equal to or greater than $30,000, shall repay each loan described in subsection (a) with a fixed monthly repayment amount paid over a period of—
“(A) 25 years; or
“(B) the period described in any of paragraphs (1) through (3), if the borrower chooses.”.

SEC. 6. COUNSELING FOR BORROWERS.

Section 485 of the Higher Education Act of 1965 (20 U.S.C. 1092) is amended—
(1) in subsection (b)(1)(A)—
(A) in clause (iii), by inserting “on an annual basis, in accordance with section 428(b)(1)(D)(ii) or paragraph (2) or (7) of section 455(d) (as applicable)” after “repayment plans”; and
(B) in clause (vii)(III), by inserting “on an annual basis, in accordance with section 428(b)(1)(D)(ii) or paragraph (2) or (7) of section 455(d) (as applicable)” after “repayment plans”; and
(2) in subsection (d)(1), by striking “including income-sensitive” and all that follows through “part D” and inserting “including, beginning on July 1, 2016, income-based repayment plans described in section 493C(f) and fixed repayment plans under section 493E”.

SEC. 7. TERMINATION OF CERTAIN REPAYMENT PLAN OPTIONS.

(a) Effective Date; Rulemaking Regarding Termination of Certain Repayment Plans.—

(1) Effective date.—This Act, and the amendments made by this Act, shall take effect on July 1, 2016.

(2) Regulations.—Before the effective date described in paragraph (1), the Secretary of Education shall carry out a plan to end all eligibility for repayment plans other than a fixed repayment plan described in section 493E and an income-based repayment plan described under section 493C(f) for loans made under part B or D of title IV of the Higher Education Act of 1965, unless the borrower is enrolled in another repayment plan before such effective date, in accordance with the amendments made by this Act.

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

(A) in paragraph (1)—

(i) in subparagraph (D)—

(I) in clause (ii), by striking “may annually change the selection of a repayment plan under this part,” and inserting “may at any time after July 1, 2016, and not more frequently than once per calendar year thereafter, change the selection of a repayment plan under this part to one of the 2 repayment plans described in paragraph (9)(C),”; and

(II) in clause (iii), by striking “be subject to income contingent repayment in accordance with subsection (m);” and inserting “be subject to income-based repayment in accordance with section 493C(f);”; and

(ii) in subparagraph (E)(i), by striking “the option of repaying the loan in accordance with a standard, graduated, income-sensitive, or extended repayment schedule (as described in paragraph (9))
established by the lender in accordance
with regulations of the Secretary; and”
and inserting “the option of repaying the
loan in accordance with a repayment plan
described in paragraph (9)(C) established
by the lender in accordance with regula-
tions of the Secretary; and”; and
(B) in paragraph (9), by adding at the end
the following:
“(C) SELECTION OF REPAYMENT PLANS
ON AND AFTER JULY 1, 2016.—
“(i) OPPORTUNITY TO CHANGE RE-
PAYMENT PLANS.—Notwithstanding any
other provision of this paragraph, or any
other provision of law, and in accordance
with regulations, beginning on July 1,
2016, the lender shall offer a borrower of
a loan made, insured, or guaranteed under
this part the opportunity to change repay-
ment plans not more than once per cal-
endar year, and to enroll in one of the fol-
lowing repayment plans:
“(I) A fixed repayment plan de-
scribed in section 493E.
“(II) The income-based repayment plan under section 493C(f).”;

and

(2) in section 455(d)—

(A) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

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

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

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

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

“(ii) the income-based repayment plan under section 493C(f).
“(B) Selection by the Secretary.—If a borrower of a loan made under this part on or after July 1, 2016, does not select a repayment plan described in subparagraph (A), the Secretary may provide the borrower with a fixed repayment plan described in section 493E.

“(C) Changes in selections.—Beginning on July 1, 2016, a borrower of a loan made under this part may change the borrower’s selection of a repayment plan in accordance with paragraph (7) and under such terms and conditions as may be established by the Secretary.

“(D) Borrower in default.—Beginning on July 1, 2016, the Secretary may require any borrower who has defaulted on a loan made under this part to—

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

“(ii) repay the loan pursuant to an income-based repayment plan under section 493C(f).”; and

(3) by adding at the end the following:

“(7) Borrowers of loans made before July 1, 2016.—A borrower who is in repayment on
a loan made under part B or part D before July 1, 2016—

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

“(B) may elect to—

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

“(ii) enter a fixed repayment plan described in section 493E; or

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

“(C) after electing to leave a repayment plan other than an income-based repayment plan described under this subsection or a 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 section 493C(b)(7)) any years of re-
payment under another income-based or income contingent repayment plan under this title.”.