Committee on Education and the Workforce

The Federal Assistance to Initiate Repayment (FAIR) Act

Section by Section Summary

SECTION 1. SHORT TITLE; TABLE OF CONTENTS

Names the bill the "Federal Assistance to Initiate Repayment Act" or the "FAIR Act."

SECTION 2. REFERENCES

Clarifies that any provisions amending or repealing existing law are, unless otherwise noted, amending or repealing provisions of the *Higher Education Act of 1965.*

SECTION 3. RETURN TO REPAYMENT REQUIREMENTS

Borrower Notifications. Requires the Secretary of the Department of Education (ED) to send at least 12 notifications to federal student loan borrowers prior to the repayment resumption using multiple forms of communication, including information on when repayments resume; borrowers' repayment options described in Section 5 of the bill; and personalized information for borrowers identified as at-risk, such as those who are in default, re-assigned to a new loan servicer, and other borrower populations specified in the bill.

Federal Preemption of State Servicing Laws. Clarifies federal preemption of state laws that conflict with federal requirements for, and the operations of, federal student loan servicers.

Servicing Contract Modifications. Requires the Office of Federal Student Aid (FSA) to provide student loan servicers actionable guidance related to new operations and information about any modifications to contracts at least 30 days before such changes take effect. Prohibits any actionable guidance to student loan servicers outside of formal contract modifications and Dear Colleague letters and clarifies that all other formats of guidance such as phone calls and emails are non-binding.

Office of Federal Student Aid Employee Bonuses. Prohibits the Chief Operating Officer of FSA and other FSA employees from receiving bonuses if they fail to implement the return to repayment requirements described in this section.

SECTION 4. REPAYMENT PLANS

Repayment Options for Loans in Repayment on or After July 1, 2023. Provides borrowers access to the standard 10-year repayment plan and a new income-driven repayment (IDR) assistance plan. Current borrowers paying under one of the existing fixed repayment plans eliminated under the bill will be able to continue paying under those plans or choose to pay under the standard 10-year plan or the new IDR assistance plan; automatically places current borrowers paying under an income-based or income-contingent plan in the new IDR plan.

Prohibition on New Repayment Incentives. Prohibits the Secretary from offering any repayment incentives beyond the 0.25 percent interest rate deduction for new borrowers.

SECTION 5. INCOME-DRIVEN REPAYMENT ASSISTANCE PLAN

Repayment Terms. Requires borrowers in the new IDR plan to repay the principal and interest they would have paid under a standard 10-year plan (or the original repayment period in the case of a consolidation loan) as calculated when they entered repayment. Requires borrowers in the new IDR plan to pay 10 percent of their discretionary income. Ensures current borrowers are held harmless if the repayment terms of their previous repayment plan were more beneficial.

Eligibility Determinations and Notification to Borrowers. Aligns the new IDR plan with current law allowing for data matching for the purposes of certifying borrowers' income. Requires current and new borrowers to recertify their income prior to making their first monthly payment under the new IDR plan.

Repayment Assistance for Distressed Borrowers. Requires the Secretary to provide repayment credit to financially distressed borrowers enrolled in the new IDR plan whose monthly payments barely cover their accumulated interest. Borrowers who meet this criteria and have an adjusted gross income (AGI) of less than 300 percent of the federal poverty line will not have unpaid interest accrue and half of their monthly payment will be creditited directly towards their loans' principal by the Secretary; borrowers whose AGI exceeds 300 percent of the federal poverty line will be eligible to receive repayment assistance if they agree to pay at least 15 percent of their discretionary income during months in which they are seeking assistance. These measures combined with other components of the new income-driven repayment plan will encourage borrowers to continue to make payments on their loans while also returning the IDR plan to a true safety net for those whose bet in college did not pay off.

Secretarial Prohibition on New Repayment Plans. Prohibits the Secretary from creating new repayment plans and from modifying an existing repayment plan in a manner that increases costs to the government.

SECTION 6. DEFERMENTS ON LOANS MADE ON OR AFTER JULY 1, 2024

Deferment Options. The bill further simplifies the repayment process by allowing for the following deferment and forbearance options for new borrowers : (1) in-school; (2) grace period; (3) periods when borrower is pursuing graduate fellowship or rehabilitation education program; (4) active duty; (5) National Guard duty; (6) medical or dental internship or residency program; (7) 120-day deferment for defaulted borrowers who sign new agreements to repay their outstanding balance; (8) administrative deferment; (9) cancer deferment; and (10) military spouse deferment. As in current law, interest does not accrue on subsidized loans during deferment periods except when a borrower is enrolled in a medical or dental internship or residency program. Interest will accrue under all deferments for unsubsidized loans except during administrative deferments and cancer deferments. A borrower can discontinue a deferment or forbearance at any time. The bill maintains the current law benefit of no interest accrual for Active-Duty Service Members deployed in hostile areas.

Parent Borrowers. Maintains current loan deferment options for parent borrowers and parent borrowers' ineligibility for IDR as in current law.

Prohibition on New Deferments and Borrower Fees. Prohibits the Secretary from authorizing additional deferment options or periods of deferment besides those authorized in statute. Protects borrowers from administrative fees in connection with deferments granted.

SECTION 7. LOAN REHABILITATION

Additional Rehabilitation for Borrowers in Default. Permits loans to go through the established loan rehabilitation process twice rather than just once.

SECTION 8. LIMITATION ON AUTHORITY OF SECRETARY TO PROPOSE OR ISSUE REGULATIONS AND EXECUTIVE ACTIONS

Requirements for New Regulations and Executive Actions. In addition to other cost analyses required under current law, requires the Secretary to confirm that any new regulations or executive actions issued related to the student loan program will not increase costs to the federal government. Prohibits any regulations from being issued that cannot meet that threshold.

Prohibition on Certain Final Rule. Prohibits ED from implementing its proposed IDR plan, estimated by the Congressional Budget Office to cost as much as $276 billion over the next decade.