116TH CONGRESS
1ST SESSION

S.

To amend the Higher Education Act of 1965 in order to improve the public service loan forgiveness program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mrs. GILLIBRAND introduced the following bill; which was read twice and referred to the Committee on ________________

A BILL

To amend the Higher Education Act of 1965 in order to improve the public service loan forgiveness program, 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 “What You Can Do For Your Country Act”.

4 SEC. 2. AMENDMENTS TO THE PUBLIC SERVICE LOAN FORGIVENESS PROGRAM.

5 (a) Public Service Loan Forgiveness.—
2

(1) IN GENERAL.—Section 455(m) of the Higher Education Act of 1965 (20 U.S.C. 1087e(m) ) is amended to read as follows:

“(m) LOAN FORGIVENESS FOR FEDERAL STUDENT LOAN BORROWERS EMPLOYED IN PUBLIC SERVICE.—

“(1) DEFINITIONS.—In this subsection:

“(A) CERTIFICATION OF EMPLOYMENT.—

The term ‘certification of employment’ means a certification of employment under paragraph (4).

“(B) FULL-TIME.—The term ‘full-time’, when used with respect to employment, means employment—

“(i) with a qualifying employer for not less than 30 hours per week; or

“(ii) with 2 or more qualifying employers for a total of not less than 30 hours per week.

“(C) QUALIFYING EMPLOYER.—The term ‘qualifying employer’ means—

“(i) a Federal, State, local, or Tribal government organization or instrumentality, including any organization established in law as a body politic;
“(ii) an organization that is described in section 501(c)(3) of the Internal Revenue Code of 1986, and exempt from taxation under section 501(a) of such Code; or

“(iii) an organization—

“(I) not described in clause (ii) that is a not-for-profit organization under other Federal or State law;

“(II) that is not a labor organization or partisan political organization; and

“(III) whose purpose is to directly provide any of the following services, as defined in regulations promulgated the Secretary:

“(aa) Emergency management and disaster response.

“(bb) Military service.

“(cc) Public safety services, including fire prevention and suppression, rescue services, hazardous materials response, ambulance services, and emergency medical services.
“(dd) Law enforcement.

“(ee) Public health, including service through organizations that employ nurses, nurse practitioners, nurses in a clinical setting, or professionals engaged in health care practitioner occupations and health care support occupations, as such terms are defined by the Bureau of Labor Statistics.

“(ff) Public education, including the provision of educational enrichment or support directly to students or their families, employment with a Tribal College or University (as defined in section 316(b)), and employment as an adjunct faculty member or instructor for an educational institution.

“(gg) Public interest law services, including prosecution or public defense or legal advocacy on behalf of low-income commu-
nities at a not-for-profit organization.

“(hh) Early childhood education, including licensed or regulated childcare, Head Start programs, and State funded pre-kindergarten.

“(ii) Public service for individuals with disabilities.

“(jj) Public service for the elderly.

“(kk) Public and school-based library sciences.

“(ll) School-based services, including the provision of non-educational enrichment or support directly to students or their families.

“(mm) Social work, including child or family services.

“(D) QUALIFYING MONTHLY PAYMENT OBLIGATION.—The term ‘qualifying monthly payment obligation’ means a monthly payment obligation due on a loan under the repayment plan of the borrower—
“(i) that was satisfied by the borrower through a payment made after October 1, 2007; and

“(ii) attributable to a period during which the borrower was employed full-time by a qualifying employer.

“(2) IN GENERAL.—Beginning on July 1, 2019, the Secretary shall forgive the applicable percentage described in paragraph (3) of the balance of principal and interest due on a loan made under this part for a borrower who has satisfied 60 or 120 qualifying monthly payment obligations on a loan made under this part and submitted any certification of employment required under this subsection.

“(3) LOAN FORGIVENESS AFTER 60 PAYMENT OBLIGATIONS AND 120 PAYMENT OBLIGATIONS.—

The applicable percentages under this paragraph shall be—

“(A) in the case of a borrower who satisfies 60 qualifying monthly payment obligations on a loan made under this part that is not in default (as defined in section 435), 50 percent of the total amount of the balance of principal and interest due on such loan as of the date of the loan forgiveness; and
“(B) in the case of a borrower who satisfies 120 qualifying monthly payment obligations on a loan made under this part that is not in default, 100 percent of the balance of principal and interest due on such loan as of the date of the loan forgiveness.

“(4) CERTIFICATION OF EMPLOYMENT REQUIREMENTS.—

“(A) IN GENERAL.—In order to receive loan forgiveness under this subsection, a borrower of a loan made under this part shall submit to the Secretary a certification of employment.

“(B) CONTENT OF CERTIFICATION.—The Secretary shall—

“(i) develop, and make easily accessible, the certification of employment; and

“(ii) ensure that the method of certification—

“(I) allows for the employer to indicate and certify the dates of the borrower’s employment; and

“(II) provides electronic signature options for the employer and for the borrower.
“(C) Borrower Access.—The Secretary shall ensure that a borrower may submit a certification of employment to the Secretary electronically through any information system through which the Secretary permits borrowers to take self-service actions with respect to their loans.

“(D) Exception for Self-Certification.—The Secretary shall provide a self-certification option for the certification of employment for borrowers who have extenuating circumstances preventing the borrowers from obtaining the qualifying employer signature and certification required under subparagraph (B)(ii), as determined by the Secretary pursuant to rulemaking and including situations where an employer is no longer in existence or refuses to cooperate.

“(E) Periodic Review of Certification of Employment.—For each borrower of a loan made under this part who has submitted a certification of employment, the Secretary shall—

“(i) by not later than 30 days after receipt of the certification of employment—
“(I) review the certification of employment and determine the number of qualifying monthly payment obligations satisfied on the loan during the period of employment covered by the certification of employment;

“(II) inform the borrower of the number of qualifying monthly payment obligations satisfied; and

“(III) inform the borrower of the number of remaining qualifying monthly payment obligations to be satisfied in order for the borrower to receive partial loan forgiveness under paragraph (3)(A), and such number needed to receive full loan forgiveness under paragraph (3)(B); and

“(ii) periodically, but not less than twice annually, notify the borrower, using the most recent calculation of qualifying monthly payment obligations, of—

“(I) the number of qualifying monthly payment obligations satisfied, as of the date of the notice;
“(II) the number of remaining qualifying monthly payment obligations to be satisfied in order for the borrower to receive partial loan forgiveness under paragraph (3)(A), and such number needed to receive full loan forgiveness under paragraph (3)(B);

“(III) any steps the borrower can take to convert non-qualifying monthly payment obligations into qualifying monthly payment obligations, including the options to provide payments to satisfy monthly payment obligations for past public service under paragraph (5)(C); and

“(IV) the dispute resolution process for the Secretary’s determination of qualifying monthly payment obligations, as described in paragraph (7).

“(5) QUALIFYING MONTHLY PAYMENT OBLIGATIONS.—

“(A) IN GENERAL.—For purposes of this subsection, the number of qualifying monthly payment obligations satisfied on a loan is the
number of monthly payments, during the period of employment and based on the repayment plan selected by the borrower for such period, that would be satisfied based on applying the total amount of payments made by the borrower on the loan at any time during such period.

“(B) ADJUSTMENT OF PAYMENT OBLIGATION STATUS.—

“(i) HOLD HARMLESS AGAINST RETROACTIVE DETERMINATIONS.—If the Secretary has classified a payment obligation satisfied by a borrower of a loan made under this part as a qualifying monthly payment obligation and later determines that the payment obligation does not qualify, the Secretary shall deem the payment obligation to be a qualifying monthly payment obligation to be counted for purposes of paragraph (2).

“(ii) EXPLANATION OF NON-QUALIFYING PAYMENT OBLIGATION DETERMINATIONS.—If the Secretary determines that payments made by a borrower of a loan made under this part for a period of full-
time employment with a qualifying em-
ployer cannot be applied toward the total
number of qualifying monthly payment ob-
ligations for purposes of paragraph (2),
the Secretary shall provide a borrower with
an explanation and allow the borrower to
correct the reason for such determination,
to the extent possible. Such borrower reme-
diation shall include, at a minimum, pro-
viding a borrower with the opportunity to
reimburse the Secretary for any under-
payment.

“(C) SATISFYING PREVIOUSLY NON-QUALI-
FYING MONTHLY PAYMENT OBLIGATIONS.—

“(i) IN GENERAL.—A borrower of a
loan made under this part who has a pe-
riod during which the borrower was em-
ployed full-time with a qualifying employer
but did not satisfy 1 or more qualifying
monthly payment obligations during such
period, such as a borrower who was in
deferment or forbearance, may satisfy 1 or
more monthly payment obligations of that
period at a later date by paying the addi-
tional amount needed to satisfy the quali-
fying monthly payment obligation, in ac-
cordance with a process established by the
Secretary.

“(ii) Determination Process.—The
amount of past monthly payment obliga-
tions satisfied by a payment under this
subparagraph for a period of employment
shall be determined using the amount of
the borrower’s monthly payment, based on
any repayment plan, as selected by the
borrower, that could have been selected by
the borrower during such period. The Sec-
retary may require a borrower wishing to
satisfy past monthly payment obligations
under this subparagraph to submit any ad-
ditional information necessary to calculate
the amount of the past payments.

“(iii) Limit.—A borrower may not
satisfy more than 36 past monthly pay-
ment obligations under this subparagraph.

“(6) Special Rules Relating to Federal
Direct Consolidation Loans.—

“(A) Review of Any New Consolida-
tion Loan Application.—
“(i) Public service loan forgiveness option on consolidation application.—Beginning on July 1, 2019, the Secretary shall include, in any application for a Federal Direct Consolidation Loan, the option for the borrower to indicate that the borrower is consolidating for the purpose of using the public service loan forgiveness program under this subsection.

“(ii) Review.—Beginning on July 1, 2019, the Secretary shall, after issuing any Federal Direct Consolidation Loan to a borrower who indicated an interest in the public service loan forgiveness program on the loan application—

“(I) request that the borrower submit a certification of employment; and

“(II) after receiving a complete certification of employment, review the borrower’s past payments on all component loans comprising the Federal Direct Consolidation Loan and inform the borrower—
“(aa) of the number of monthly payment obligations satisfied by the borrower before the date of consolidation that are qualifying monthly payment obligations, in accordance with subparagraph (B); or

“(bb) if no payment obligations are satisfied, that the borrower will not receive any credit towards public service loan forgiveness under this subsection for the Federal Direct Consolidation Loan.

“(B) Qualifying Payment Obligations on All Component Loans and Loan Types through Consolidation.—In the case of a borrower of one or more loans eligible for consolidation, including loans made under part B, who applies for, and receives, a Federal Direct Consolidation Loan, the Secretary shall request the borrower submit a certification of employment for any qualifying employment and, after receiving the certification of employment, shall—
“(i) review the borrower’s payment history on each of the component loans comprising the Federal Direct Consolidation Loan, including each loan made under part B; and

“(ii) for each component loan—

“(I) calculate the weighted factor of the component loan, which shall be the factor that represents the ratio between the amount of the component loan and the amount of the Federal Direct Consolidation Loan, as determined by the Secretary;

“(II) determine the number of equivalent monthly payment obligations toward the Federal Direct Consolidation Loan satisfied on the component loan by multiplying the weighted factor for the component loan by the number of qualifying monthly payment obligations that the borrower satisfied on the component loan; and

“(III) after rounding the number determined under subclause (II) to the nearest whole number, deem that
number of equivalent monthly payment obligations to be qualifying monthly payment obligations on the Federal Direct Consolidation Loan.

“(C) APPLICABILITY OF BORROWER PROTECTIONS AND RIGHTS.—A borrower of 1 or more loans eligible for consolidation, including loans made under part B, who applies for and receives a Federal Direct Consolidation Loan shall receive all the protections and rights provided under subparagraphs (B) and (C) of paragraph (5) for the loan, and for any component loan, in the same manner as provided to any other borrower of a loan made under this part.

“(7) NOTICE OF QUALIFYING PAYMENT OBLIGATIONS.—

“(A) INITIAL NOTICE.—Upon receiving any verbal or written contact by a borrower on or after July 1, 2019, expressing interest in the public service loan forgiveness program under this subsection, the Secretary, or an eligible lender or guaranty agency under part B, shall provide the borrower, by not later than 30 days after the contract, with a notice that—
“(i) explains the requirements of the program, including whether the borrower needs to consolidate some or all of the borrower’s loans to receive forgiveness under this subsection;

“(ii) includes a copy of, or a link to, information about the certification of employment process described in paragraph (4);

“(iii) includes an estimate of the qualifying monthly payment obligations that would be satisfied by the borrower based on the borrower’s payment history, as of the date of notice, if the borrower was a full-time employee of a qualifying employer and met the requirements of paragraph (2); and

“(iv) includes an estimate of the number of remaining qualifying monthly payment obligations to be satisfied in order for the borrower to receive partial loan forgiveness under paragraph (3)(A), and such number needed to receive full loan forgiveness under paragraph (3)(B).
“(B) Subsequent Notices.—After providing an initial notice under subparagraph (A), the Secretary, or an eligible lender or guaranty agency under part B, shall annually provide the borrower with a notice containing the information described in such subparagraph for each subsequent year that the borrower has an outstanding loan, unless the borrower receives notices under paragraph (4)(E)(ii) or requests that the notices be discontinued.

“(8) Dispute Resolution Process.—By not later than July 1, 2019, the Secretary shall establish a process for borrowers to dispute the calculation of qualifying monthly payment obligations, or the determination of full or partial loan forgiveness under paragraph (2), following the submission of a certification of employment or application for forgiveness or any successor certification or application.

“(9) Database of Qualifying Employers.—

“(A) In General.—Not later than July 1, 2019, the Secretary shall—

“(i) establish a database that will include all employers from which the Secretary has received a certification of employment; and
“(ii) use such database to aid the Secretary in processing a certification of employment and in providing the notices required under subsection (r)(3).

“(B) DATA MATCHING AGREEMENTS.—

“(i) IN GENERAL.—The Secretary shall enter into data matching agreements with relevant Federal agencies who possess records about the status of employers or the status of borrowers as employees of qualifying employers for the purpose of eliminating, to the extent practicable, the need for a borrower or employer to submit a certification of employment to the Secretary.

“(ii) SPECIFIC FEDERAL AGENCIES.—Notwithstanding any Federal law, the Secretary of Labor, the Commissioner of Internal Revenue, and the Commissioner of Social Security shall disclose any relevant records to the Secretary for the purposes of meeting the Secretary’s obligations to reduce barriers to certification of employment as described in clause (i).
“(iii) Notice to Borrowers.—If the Secretary receives employer or employment information regarding a borrower from a Federal agency pursuant to this subparagraph, the Secretary shall timely notify the borrower that—

“(I) the Secretary received the information; and

“(II) the borrower, for the duration of the borrower’s employment by the employer—

“(aa) is not required to submit a certification of employment for the employer under paragraph (4); or

“(bb) if the information is not complete, only needs to submit a reduced set of information to the Secretary for the certification of employment.

“(10) Ineligibility.—

“(A) No Double Benefits.—No borrower may, for the same service, receive a reduction of loan obligations under both this subsection and section 428J, 428K, 428L, or 460.
“(B) **FEDERAL ELECTED SERVICE EXCLUDED.**—No borrower may receive loan forgiveness under this subsection for service as a Member of Congress or President or Vice President of the United States.”.

(2) **FFEL PROGRAM AMENDMENTS.**—Part B of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) is amended—

**(A)** in section 428 (20 U.S.C. 1078), by adding at the end the following:

“**(p) REPAYMENT HISTORY INFORMATION AND PUBLIC SERVICE LOAN FORGIVENESS INFORMATION.**—A guaranty agency shall—

“(1) provide, in a timely manner, any necessary borrower repayment history information that the Secretary requests in order to determine the borrower’s eligibility for the public service loan forgiveness program under section 455(m), or the number of qualifying monthly payment obligations satisfied for purposes of the program, including such information from all servicers involved in servicing the borrower’s loan; and

“(2) carry out the requirements of section 455(m)(7) upon receiving any verbal or written contact by a borrower on or after July 1, 2019, express-
ing interest in the public service loan forgiveness program under section 455(m).”; and

(B) in section 433 (20 U.S.C. 1083)—

(i) by redesignating subsection (f) as subsection (g); and

(ii) by inserting after subsection (e) the following:

“(f) REPAYMENT HISTORY INFORMATION.—An eligible lender shall—

“(1) provide, in a timely manner, any necessary borrower repayment history information that the Secretary requests in order to determine the borrower’s eligibility for the public service loan forgiveness program under section 455(m), or the number of qualifying monthly payment obligations satisfied for purposes of the public service loan forgiveness program under section 455(m), including such information from all servicers involved in servicing the borrower’s loan; and

“(2) carry out the requirements of section 455(m)(7) upon receiving any verbal or written contact by a borrower on or after July 1, 2019, expressing interest in the public service loan forgiveness program under section 455(m).”.
(b) Notification to Direct Loan Borrowers Regarding All Options for Loan Forgiveness.—

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

“(r) Annual Notice Regarding Loan Forgiveness Options.—

“(1) In general.—The Secretary shall annually provide a written or electronic disclosure to each borrower of a loan under this part—

“(A) notifying the borrower—

“(i) of any loan forgiveness option available under this title that might apply to a loan under this part held by the borrower, including the public service loan forgiveness program under subsection (m); and

“(ii) in the case of a borrower who is a full-time employee of a Federal agency and has not expressed interest in or submitted a certification of employment for the public service loan forgiveness program—

“(I) that the borrower is employed by a qualifying employer;
“(II) the number of payment obligations satisfied by the borrower that the Secretary has determined could be qualifying monthly payment obligations on eligible Federal Direct Loan for purposes of the public service loan forgiveness program; and

“(III) the steps necessary for the borrower to submit a certification of employment and to obtain forgiveness under subsection (m)(2);

“(B) informing the borrower that the loan forgiveness options described in subparagraph (A) are provided free of charge; and

“(C) including, for each loan forgiveness option, information regarding how the borrower should proceed, including contact information, if the borrower wishes to pursue such loan forgiveness option.

“(2) EXCLUSIONS.—Notwithstanding paragraph (1), the Secretary shall not provide a notification under this subsection to a borrower of a loan under this part if—

“(A) the borrower is also receiving a notification under subsection (m)(7); or
“(B) the borrower has requested that the Secretary no longer provide the notifications under this subsection.”.

(c) Effective Date.—The amendments made by this section shall take effect on July 1, 2019.

SEC. 3. TRANSITION TO IMPROVED PUBLIC SERVICE LOAN FORGIVENESS PROGRAM.

(a) Review of Borrowers Currently Participating in Public Service Loan Forgiveness.—

(1) Calculating the number of qualifying payment obligations for current public service loan forgiveness program participants.—By not later than July 1, 2019, the Secretary shall, for each borrower that has submitted a certification of employment under the public service loan forgiveness program under section 455(m) of the Higher Education Act of 1965 (20 U.S.C. 1087e) before July 1, 2019—

(A) calculate the number of qualifying payment obligations under such section satisfied by the borrower, using the criteria of such section as in effect on July 1, 2019; and

(B) inform the borrower of the changes in the public service loan forgiveness program and the number of qualifying payment obligations
that the borrower will have satisfied for purposes of the program, beginning on July 1, 2019.

(2) Retroactive Partial Loan Forgiveness.—By not later than July 1, 2019, the Secretary shall take such steps as are necessary to provide partial loan forgiveness under section 455(m)(3)(A)(i) of the Higher Education Act of 1965 (20 U.S.C. 1087e(m)(3)(A)(i)), as in effect on such date, to borrowers with outstanding balance of principal and interest on a loan made under this part who met the criteria for partial loan forgiveness under such section, as in effect on July 1, 2019, before such date but on or after October 1, 2007.

(3) Applicability of Other Provisions.—In carrying out paragraphs (1) and (2), and in any other case where the Secretary is applying the loan forgiveness provisions of section 455(m) of the Higher Education Act of 1965 (20 U.S.C. 1087e(m)), as in effect on July 1, 2019, to a borrower for whom 1 or more payment obligations were satisfied before July 1, 2019, the Secretary shall determine the number of payment obligations satisfied by applying all of the provisions of such section as in effect on July 1, 2019, including the calculation of payment
obligations under section 455(m)(5) of such Act and
the inclusion of payment obligations satisfied
through the component loans of a Federal Direct
Consolidation Loan under section 455(m)(6), with-
out regard as to the date on which the payment obli-
gation was satisfied.

(b) Special PSLF Program Funds.—

(1) Definition of Special PSLF Program
Funds.—In this section, the term “special PSLF
program funds” means the amounts appropriated
for public service loan forgiveness under section 315
of division H of the Consolidated Appropriations
Act, 2018 (Public Law 115–141; March 23, 2018)
or under section 313 of division B of the Depart-
ment of Defense and Labor, Health and Human
Services, and Education Appropriations Act, 2019
and Continuing Appropriations Act, 2019 (Public
Law 115–245; September 28, 2018).

(2) Rescission.—Upon the effective date de-
scribed in section 2(c), all special PSLF program
funds that remain unexpended on such date shall be
rescinded.

(3) Transition.—The Secretary of Education
shall establish a process through which the Secretary
shall—
(A) review the applications of borrowers who applied for the loan forgiveness program carried out with special PSLF program funds but had not received loan forgiveness through such program before July 1, 2019; and

(B) assist such borrowers in pursuing loan forgiveness under section 455(m) of the Higher Education Act of 1965 (20 U.S.C. 1087e(m)), as in effect on July 1, 2019.