

113TH CONGRESS
1ST SESSION

S. 1266

To provide for the establishment of a mechanism to allow borrowers of private education loans to refinance their loans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2013

Mr. BROWN (for himself, Ms. HEITKAMP, Mr. DURBIN, Mrs. MURRAY, and Mrs. GILLIBRAND) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for the establishment of a mechanism to allow borrowers of private education loans to refinance their loans, 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 “Refinancing Education
5 Funding to Invest (REFI) for the Future Act of 2013”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds that—

8 (1) there is approximately \$1,100,000,000,000
9 of outstanding student loan debt in the United

1 States, including more than \$150,000,000,000 in
2 private education loans;

3 (2) as of 2008, 81 percent of individuals grad-
4 uating with an undergraduate degree with more
5 than \$40,000 in student loans had a private edu-
6 cation loan;

7 (3) the limited number of lenders in the private
8 education loan marketplace reduce the ability of bor-
9 rowers with private education loans to restructure,
10 refinance, or negotiate repayment terms for their
11 current loans, leading to excessive debt burdens and
12 potential default; and

13 (4) excessive student indebtedness reduces eco-
14 nomic activity, threatens homeownership, hurts
15 small business growth, and limits opportunities for
16 economic expansion in rural communities.

17 (b) PURPOSE.—The purpose of this Act is to spur
18 economic growth, by establishing a mechanism to allow
19 borrowers of private education loans to refinance their
20 loans in order—

21 (1) to facilitate greater competition in the pri-
22 vate education lending and refinancing markets;

23 (2) to address inefficiencies in the private edu-
24 cation lending and refinancing markets;

1 (3) to encourage innovation in the private edu-
 2 cation refinancing markets; and

3 (4) to promote the participation of private cap-
 4 ital in the private education refinancing markets.

5 **SEC. 3. DEFINITIONS.**

6 In this Act—

7 (1) the term “private education loan” has the
 8 same meaning as in section 140(a) of the Truth in
 9 Lending Act (15 U.S.C. 1650(a)); and

10 (2) the term “Secretary” means the Secretary
 11 of the Treasury, other than in the context of the
 12 Secretary of Education.

13 **SEC. 4. TEMPORARY AUTHORITY TO CREATE A CREDIT FA-**
 14 **CILITY TO INCREASE MARKET EFFICIENCY IN**
 15 **THE STUDENT LOAN MARKET.**

16 (a) AUTHORITY.—

17 (1) IN GENERAL.—

18 (A) CREDIT FACILITIES AUTHORIZA-
 19 TION.—Upon a determination by the Secretary
 20 that borrowers are unable to secure adequate
 21 credit accommodations with existing private
 22 education loans, the Secretary, notwithstanding
 23 any provision of section 484 of the Higher Edu-
 24 cation Act of 1965 (20 U.S.C. 1091), is author-

1 ized to establish lending, purchase, and other
2 credit facilities to—

3 (i) accommodate reasonable refi-
4 nancing opportunities or other loan adjust-
5 ments that—

6 (I) improve the sustainability of
7 payments for the borrower; and

8 (II) reduce the likelihood of de-
9 linquency and default on private edu-
10 cation loans;

11 (ii) benefit borrowers that are most
12 likely to have private student debt service
13 obligations that represent a dispropor-
14 tionate share of their income; and

15 (iii) ensure that borrowers pay lower
16 interest rates that are commensurate with
17 credit risk, so that they may pursue more
18 economically productive activities, such as
19 home purchases and small business forma-
20 tion.

21 (B) CONSULTATION.—

22 (i) IN GENERAL.—Any determination
23 under subparagraph (A) shall be made
24 jointly with the Secretary of Education

1 and the Director of the Bureau of Con-
2 sumer Financial Protection.

3 (ii) COMPLIANCE SYSTEM.—Prior to
4 establishing a facility under this sub-
5 section, the Secretary, or any adminis-
6 trator designated by the Secretary to es-
7 tablish a program to carry out the author-
8 ity provided in this subsection, shall estab-
9 lish a compliance system in consultation
10 with the Bureau of Consumer Financial
11 Protection.

12 (2) NO NET COST TO GOVERNMENT.—Mecha-
13 nisms established under this subsection shall not re-
14 sult in any net cost to the Federal Government, as
15 determined jointly by the Secretary, the Secretary of
16 Education, and the Director of the Office of Man-
17 agement and Budget.

18 (b) FEDERAL REGISTER NOTICE.—Prior to exer-
19 cising any authority provided under subsection (a), the
20 Secretary shall publish a notice in the Federal Register
21 to seek comment from interested parties on its proposed
22 exercise of such authority, including—

23 (1) the terms and conditions governing the
24 lending, purchases, or other credit facilities author-
25 ized by subsection (a);

1 (2) an outline of methodology and factors con-
2 sidered in the purchase or restructuring of private
3 education loans;

4 (3) private education loan modification options
5 that may be available for existing loans;

6 (4) how they will ensure that borrowers whose
7 education debt service obligations represent a dis-
8 proportionate share of their income will be provided
9 relief; and

10 (5) how the use of the methodology and factors,
11 as proposed in the notice, will be used to ensure that
12 any exercise of authority by the Secretary will result
13 in no net cost to the Federal Government.

14 (c) INITIAL REPORT.—Not later than 90 days after
15 the date of enactment of this Act, the Secretary shall sub-
16 mit to the appropriate committees of Congress a report
17 that includes—

18 (1) a plan of the Secretary to implement credit
19 mechanisms under the authority of this Act;

20 (2) a description of macroeconomic benefits of
21 increased efficiency and refinance activity in the stu-
22 dent loan market; and

23 (3) a description of the benefits through the use
24 of such authority to private education loan bor-
25 rowers, including how any incidental net gain from

1 the credit mechanism would be used to benefit stu-
2 dent borrowers.

3 (d) ANNUAL REPORTS.—Beginning 1 year after the
4 date of the first use of the authority provided under this
5 section, the Secretary shall provide an annual report to
6 the Committee on Banking, Housing, and Urban Affairs
7 of the Senate and the Committee on Financial Services
8 of the House of Representatives describing the utilization,
9 impact, and financial performance of any program estab-
10 lished under the authority of this section.

11 (e) PUBLIC AWARENESS.—Not later than 60 days
12 after the date of publication of a notice in the Federal
13 Register pursuant to subsection (b), the Secretary, in con-
14 sultation with the Secretary of Education and the Director
15 of the Bureau of Consumer Financial Protection, shall
16 begin a national awareness campaign to alert all private
17 education loan borrowers who may benefit from any pro-
18 gram or facilities established under this section. Such
19 campaign shall include outreach to targeted populations
20 of borrowers that are most likely to have private education
21 loan debt service obligations that represent a dispropor-
22 tionate share of their income.

23 (f) EXPIRATION OF AUTHORITY.—Three years after
24 the date on which a credit facility is established under this
25 Act, and not later than 5 years after the date of enactment

1 of this Act, any new lending, purchase, or other activity
2 initiated through the facilities established by the Secretary
3 under subsection (a) shall cease.

4 **SEC. 5. SENSE OF CONGRESS.**

5 It is the sense of Congress that the Federal financial
6 institutions, such as the Federal Financing Bank and the
7 Federal Reserve banks, and federally chartered private en-
8 tities, such as the Federal home loan banks, should con-
9 sider, in consultation with the Secretary and the Secretary
10 of Education, using available authorities in a timely man-
11 ner, if needed, to assist in ensuring that borrowers of pri-
12 vate education loans can secure credit accommodations to
13 refinance existing loans, in a manner that results in no
14 increased costs to taxpayers.

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