

113TH CONGRESS
1ST SESSION

S. 1873

To provide for institutional risk-sharing in the Federal student loan programs.

IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 2013

Mr. REED (for himself, Mr. DURBIN, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for institutional risk-sharing in the Federal student loan programs.

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 “Protect Student Bor-
5 rowers Act of 2013”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to protect student bor-
8 rowers by requiring institutions of higher education to as-
9 sume some of the risk of default for student loans under

1 part D of title IV of the Higher Education Act of 1965
 2 (20 U.S.C. 1087a et seq.).

3 **SEC. 3. INSTITUTIONAL REBATES TO THE DEPARTMENT OF**
 4 **EDUCATION FOR DEFAULTED LOANS.**

5 Section 454 of the Higher Education Act of 1964 (20
 6 U.S.C. 1087d) is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (5), by striking “and”;

9 (B) in paragraph (6) by striking the period
 10 at the end and inserting “; and”; and

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

12 “(7) provide that the institution accepts the in-
 13 stitutional risk-sharing requirements under sub-
 14 section (d), if applicable.”; and

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

16 “(d) INSTITUTIONAL RISK-SHARING FOR STUDENT
 17 LOAN DEFAULTS.—

18 “(1) IN GENERAL.—Subject to paragraph (3),
 19 each institution of higher education participating in
 20 the direct student loan program under this part for
 21 a fiscal year that has a rate of participation in such
 22 program for all students enrolled at that institution
 23 for such fiscal year that is 25 percent or higher shall
 24 remit, at such times as the Secretary may specify,
 25 a risk-sharing payment based on a percentage of the

1 volume of student loans under this part that are in
2 default, as determined under paragraph (2).

3 “(2) DETERMINATION OF RISK-SHARING PAY-
4 MENTS.—Subject to paragraph (3), with respect to
5 each fiscal year, an institution of higher education
6 described in paragraph (1) that has a cohort default
7 rate (as defined in section 435(m))—

8 “(A) that is 30 percent or higher for the
9 most recent fiscal year for which data are avail-
10 able, shall pay to the Secretary for the fiscal
11 year an amount that is equal to 20 percent of
12 the total amount (including interest and collec-
13 tion fees) of loans made under this part to stu-
14 dents that are in default;

15 “(B) that is lower than 30 percent but not
16 lower than 25 percent for the most recent fiscal
17 year for which data are available, shall pay to
18 the Secretary for the fiscal year an amount that
19 is equal to 15 percent of the total amount (in-
20 cluding interest and collection fees) of loans
21 made under this part to students that are in
22 default;

23 “(C) that is lower than 25 percent but not
24 lower than 20 percent for the most recent fiscal
25 year for which data are available, shall pay to

the Secretary for the fiscal year an amount that is equal to 10 percent of the total amount (including interest and collection fees) of loans made under this part to students that are in default; and

“(D) that is lower than 20 percent but not lower than 15 percent for the most recent fiscal year for which data are available, shall pay to the Secretary for the fiscal year an amount that is equal to 5 percent of the total amount (including interest and collection fees) of loans made under this part to students that are in default.

“(3) WAIVER AND REDUCED RISK-SHARING PAYMENTS.—

“(A) WAIVER.—The Secretary shall waive the risk-sharing payments described in paragraph (1) for an institution described in paragraph (2)(D) that meets the requirements of subparagraph (D).

“(B) REDUCED RISK-SHARING PAYMENTS.—If an institution has in place a student loan management plan described in subparagraph (D) that is approved by the Secretary, the Secretary shall reduce the total an-

1 nual amount of risk-sharing payments as fol-
2 lows:

3 “(i) With respect to an institution
4 with a cohort default rate described in
5 paragraph (2)(A), the risk-sharing pay-
6 ment shall be in an amount that is equal
7 to 15 percent of the total amount (includ-
8 ing interest and collection fees) of loans
9 made under this part to students that are
10 in default.

11 “(ii) With respect to an institution
12 with a cohort default rate described in
13 paragraph (2)(B), the risk-sharing pay-
14 ment shall be in an amount that is equal
15 to 10 percent of the total amount (includ-
16 ing interest and collection fees) of loans
17 made under this part to students that are
18 in default.

19 “(iii) With respect to an institution
20 with a cohort default rate described in
21 paragraph (2)(C), the risk-sharing pay-
22 ment shall be in an amount that is equal
23 to 5 percent of the total amount (including
24 interest and collection fees) of loans made

1 under this part to students that are in de-
2 fault.

3 “(C) CONTINUATION OF WAIVER OR RE-
4 DUCED PAYMENTS.—An institution that re-
5 ceives a waiver under subparagraph (A) or a re-
6 duced risk-sharing payment under subpara-
7 graph (B) may receive a waiver or reduced pay-
8 ment for a subsequent fiscal year only if the
9 Secretary determines that the institution is
10 making satisfactory progress in carrying out the
11 student loan management plan described in
12 subparagraph (D), including evidence of the ef-
13 fectiveness of the individualized financial aid
14 counseling for students.

15 “(D) STUDENT LOAN MANAGEMENT
16 PLAN.—An institution that seeks a waiver or
17 reduction of its risk-sharing payment, shall de-
18 velop and carry out a student loan management
19 plan that shall include an analysis of the risk
20 factors correlated with higher student loan de-
21 faults that are present at the institution and
22 actions that the institution will take to address
23 such factors. Such plan shall include individual-
24 ized financial aid counseling for students and

1 strategies to minimize student loan default and
 2 delinquency.

3 “(E) WAIVER OR REDUCTION FOR CER-
 4 TAIN INSTITUTIONS.—In addition to the other
 5 risk-sharing payment waivers and reductions
 6 described in this paragraph, the Secretary may
 7 waive or reduce risk-sharing payments if—

8 “(i) an institution is eligible under—

9 “(I) part A or part B of title III;

10 or

11 “(II) title V; and

12 “(ii) the Secretary determines that—

13 “(I) the institution is making
 14 satisfactory progress in carrying out
 15 the institution’s student loan manage-
 16 ment plan described under subpara-
 17 graph (D); and

18 “(II) granting a waiver or reduc-
 19 tion of risk-sharing payments would
 20 be in the best interest of students at
 21 the institution.

22 “(4) PROHIBITION.—An institution of higher
 23 education shall not deny admission or financial aid
 24 to a student based on a perception that such student

1 may be at risk for defaulting on a loan made under
2 this part.

3 “(5) FUND FOR THE DEPOSIT OF RISK-SHAR-
4 ING PAYMENTS.—

5 “(A) IN GENERAL.—There is established in
6 the Treasury of the United States a separate
7 account for the deposit of risk-sharing pay-
8 ments collected under this subsection. The Sec-
9 retary shall deposit any payments collected pur-
10 suant to this subsection into such fund.

11 “(B) USE OF FUNDS.—Of the amounts in
12 the fund described in subparagraph (A), for
13 each fiscal year—

14 “(i) not more than 50 percent of such
15 amounts shall be made available to the
16 Secretary to enter into contracts or cooper-
17 ative agreements for delinquency and de-
18 fault prevention or rehabilitation under
19 section 456(d); and

20 “(ii) the Secretary shall reserve the
21 remainder of such amounts for a Federal
22 Pell Grant fund that shall be used to offset
23 any future shortfalls in funding under the
24 Federal Pell Grant program.

1 “(6) APPLICABILITY.—The Secretary shall
2 carry out this subsection beginning with the cohort
3 default rate for the 2014 cohort. The 2014 cohort
4 shall include current and former students who enter
5 repayment in fiscal year 2014.

6 “(7) REPORT TO CONGRESS.—The Secretary
7 shall report on an annual basis to the Committee on
8 Health, Education, Labor, and Pensions of the Sen-
9 ate and the Committee on Education and the Work-
10 force of the House of Representatives the following
11 information:

12 “(A) A list of institutions that have been
13 subject to risk-sharing payments in the previous
14 year.

15 “(B) The required risk-sharing payment
16 from such institutions.

17 “(C) The amount of risk-sharing payments
18 collected from such institutions.

19 “(D) A list of the institutions that have re-
20 ceived waivers from the risk-sharing payment
21 and the reason for such waiver.

22 “(E) A list of the institutions that have re-
23 ceived reductions in the required risk-sharing
24 payment.

1 “(F) The use of funds deposited from risk-
 2 sharing payments, including a list of any con-
 3 tracts or cooperative agreements for delin-
 4 quency and default prevention or rehabilitation
 5 and the amount reserved for the Federal Pell
 6 Grant program.”.

7 **SEC. 4. CONTRACTS AND COOPERATIVE AGREEMENTS.**

8 Section 456 of the Higher Education Act of 1965 (20
 9 U.S.C. 1087f) is amended by adding at the end the fol-
 10 lowing:

11 “(d) CONTRACTS AND COOPERATIVE AGREEMENTS
 12 FOR DELINQUENCY AND DEFAULT PREVENTION AND FOR
 13 DEFAULT REHABILITATION.—The Secretary may enter
 14 into contracts or cooperative agreements for—

15 “(1) statewide or institutionally based programs
 16 for the prevention of Federal student loan delin-
 17 quency and default at institutions of higher edu-
 18 cation that—

19 “(A) have a high cohort default rate as de-
 20 fined under section 435(m); or

21 “(B) serve large numbers or percentages of
 22 student loan borrowers who have a risk factor
 23 associated with higher default rates on Federal
 24 student loans under this title, such as coming
 25 from a low-income family, being a first genera-

1 tion postsecondary education student, not hav-
2 ing a secondary school diploma, or having pre-
3 viously defaulted on, and rehabilitated, a loan
4 made under this title; and
5 “(2) increasing the number of borrowers who
6 successfully rehabilitate defaulted loans.”.

7 **SEC. 5. FINANCIAL RESPONSIBILITY.**

8 Section 498(c)(1) of the Higher Education Act of
9 1965 (20 U.S.C. 1099c(c)(1)) is amended by striking sub-
10 paragraph (C) and inserting the following:

11 “(C) to meet all of its financial obligations,
12 including institutional risk-sharing payments,
13 refunds of institutional charges, and repay-
14 ments to the Secretary for liabilities and debts
15 incurred in programs administered by the Sec-
16 retary.”.

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