

114TH CONGRESS
1ST SESSION

S. 1102

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

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2015

Mr. REED (for himself, Ms. WARREN, Mr. DURBIN, and Mr. MURPHY) 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 2015”.

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 after the semicolon;

10 (B) in paragraph (6), by striking the pe-
 11 riod at the end and inserting “; and”; and

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

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

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

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

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

1 a risk-sharing payment based on a percentage of the
 2 volume of student loans under this part that are in
 3 default, as determined under paragraph (2).

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

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

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

“(C) that is lower than 25 percent but not lower than 20 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 10 percent of the total amount (including interest and collection fees) of loans made under this part to students who are in default for such most recent fiscal year for which data are available; 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 who are in default for such most recent fiscal year for which data are available.

“(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).

1 “(B) REDUCED RISK-SHARING PAY-
2 MENTS.—If an institution has in place a stu-
3 dent loan management plan described in sub-
4 paragraph (D) that is approved by the Sec-
5 retary, the Secretary shall reduce the total an-
6 nual amount of risk-sharing payments as fol-
7 lows:

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

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

24 “(iii) With respect to an institution
25 with a cohort default rate described in

paragraph (2)(C), the risk-sharing payment shall be in 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 who are in default.

“(C) CONTINUATION OF WAIVER OR REDUCED PAYMENTS.—An institution that receives a waiver under subparagraph (A) or a reduced risk-sharing payment under subparagraph (B) may receive a waiver or reduced payment for a subsequent fiscal year only if the Secretary determines that the institution is making satisfactory progress in carrying out the student loan management plan described in subparagraph (D), including evidence of the effectiveness of the individualized financial aid counseling for students.

“(D) STUDENT LOAN MANAGEMENT PLAN.—An institution that seeks a waiver or reduction of its risk-sharing payment, shall develop and carry out a student loan management plan that shall include an analysis of the risk factors correlated with higher student loan defaults that are present at the institution and

actions that the institution will take to address such factors. Such plan shall include individualized financial aid counseling for students and strategies to minimize student loan default and delinquency.

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

“(i) an institution is eligible under—

“(I) part A or part B of title III;

or

“(II) title V; and

“(ii) the Secretary determines that—

“(I) the institution is making satisfactory progress in carrying out the institution’s student loan management plan described under subparagraph (D); and

“(II) granting a waiver or reduction of risk-sharing payments would be in the best interest of students at the institution.

1 “(4) PROHIBITION.—An institution of higher
 2 education shall not deny admission or financial aid
 3 to a student based on a perception that such student
 4 may be at risk for defaulting on a loan made under
 5 this part.

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

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

14 “(B) USE OF FUNDS.—Of the amounts in
 15 the fund described in subparagraph (A), for
 16 each fiscal year—

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

23 “(ii) the Secretary shall reserve the
 24 remainder of such amounts for a Federal
 25 Pell Grant fund that shall be used to offset

1 any future shortfalls in funding under the
2 Federal Pell Grant program.

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

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

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

17 “(B) The required risk-sharing payment
18 from such institutions.

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

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

1 “(E) A list of the institutions that have re-
 2 ceived reductions in the required risk-sharing
 3 payment.

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

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

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

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

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

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

24 “(B) serve large numbers or percentages of
 25 student loan borrowers who have a risk factor

1 associated with higher default rates on Federal
2 student loans under this title, such as coming
3 from a low-income family, being a first genera-
4 tion postsecondary education student, not hav-
5 ing a secondary school diploma, or having pre-
6 viously defaulted on, and rehabilitated, a loan
7 made under this title; and

8 “(2) increasing the number of borrowers who
9 successfully rehabilitate defaulted loans.”.

10 **SEC. 5. FINANCIAL RESPONSIBILITY.**

11 Section 498(c)(1) of the Higher Education Act of
12 1965 (20 U.S.C. 1099c(c)(1)) is amended by striking sub-
13 paragraph (C) and inserting the following:

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

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