

116TH CONGRESS
1ST SESSION

S. 968

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

IN THE SENATE OF THE UNITED STATES

APRIL 1, 2019

Mr. REED (for himself, Mr. DURBIN, Ms. WARREN, 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 2019”.

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 33 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 of such cohort that are in default;

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

24 “(C) that is lower than 25 percent but not
 25 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 of such cohort that are in default; or

“(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 of such cohort 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 Sec-

1 retary, the Secretary shall reduce the total an-
2 nual amount of risk-sharing payments as fol-
3 lows:

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

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

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

1 under this part to students of such cohort
2 that are in default.

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 for the
9 purpose of reducing student loan debt, delin-
10 quency, and default. The Secretary shall deposit
11 any payments collected pursuant to this sub-
12 section into such fund.

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

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

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

award available to students who attend an institution—

“(I) that participates in the direct student loan program under this part;

“(II) in which not less than 33 percent of the students enrolled at the institution have received a Federal Pell Grant; and

“(III) that has a rate of participation in the direct student loan program under this part for all students enrolled at that institution for such fiscal year that is—

“(aa) 33 percent or higher and such institution is not subject to the risk-sharing payments under this subsection; or

“(bb) less than 33 percent and such institution has a cohort default rate of less than 15 percent for the most recent fiscal year for which data are available.

“(6) APPLICABILITY.—The Secretary shall carry out this subsection beginning with the cohort

1 default rate for the 2019 cohort. The 2019 cohort
2 shall include current and former students who enter
3 repayment in fiscal year 2019.

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

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

13 “(B) The required risk-sharing payment
14 from such institutions.

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

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

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

23 “(F) The use of funds deposited from risk-
24 sharing payments, including—

1 “(i) the amount reserved for contracts
2 or cooperative agreements for delinquency
3 and default prevention or rehabilitation;

4 “(ii) a list of contracts or cooperative
5 agreements entered into for delinquency
6 and default prevention or rehabilitation;

7 “(iii) information on the performance
8 of such contracts or cooperative agree-
9 ments;

10 “(iv) the amount reserved for the
11 Federal Pell Grant program; and

12 “(v) a list of institutions for which
13 students in attendance at the institution
14 are eligible for the increased maximum
15 Federal Pell Grant under paragraph
16 (5)(B)(ii) and the amount of such in-
17 crease.”.

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

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

22 “(c) CONTRACTS AND COOPERATIVE AGREEMENTS
23 FOR DELINQUENCY AND DEFAULT PREVENTION AND FOR
24 DEFAULT REHABILITATION.—The Secretary may enter
25 into contracts or cooperative agreements for—

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

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

7 “(B) serve large numbers or percentages of
 8 student loan borrowers who have a risk factor
 9 associated with higher default rates on Federal
 10 student loans under this title, such as coming
 11 from a low-income family, being a first genera-
 12 tion postsecondary education student, not hav-
 13 ing a secondary school diploma, or having pre-
 14 viously defaulted on, and rehabilitated, a loan
 15 made under this title; and

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

18 **SEC. 5. FINANCIAL RESPONSIBILITY.**

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

22 “(C) to meet all of its financial obligations, in-
 23 cluding institutional risk-sharing payments, refunds
 24 of institutional charges, and repayments to the Sec-

1 retary for liabilities and debts incurred in programs
2 administered by the Secretary.”.

3 **SEC. 6. GENERAL ACCOUNTABILITY OFFICE STUDIES.**

4 Not later than 12 months after the date of enactment
5 of the Protect Student Borrowers Act of 2019, the Comp-
6 troller General of the United States shall report to the
7 Committee on Health, Education, Labor, and Pensions of
8 the Senate and the Committee on Education and Labor
9 of the House of Representatives the results of a study that
10 addresses the following:

11 (1) How a repayment rate metric could be used
12 in place of or in conjunction with the cohort default
13 rate for institutional eligibility and risk-sharing.

14 (2) The implications of using a cohort repay-
15 ment rate versus other types of repayment rate.

16 (3) The considerations that should be taken
17 into account before transitioning from the current
18 cohort default rate metric to a repayment rate met-
19 ric.

20 (4) The impact on risk-sharing payments and
21 institutional eligibility if the cohort default rate were
22 based on 5 years instead of 3 years.

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