

118TH CONGRESS
2D SESSION

S. 4565

To amend the Higher Education Act of 1965 to provide for institutional ineligibility based on low cohort repayment rates and to require risk-sharing payments of institutions of higher education.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2024

Mrs. SHAHEEN (for herself and Mr. YOUNG) introduced the following bill;
which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Higher Education Act of 1965 to provide for institutional ineligibility based on low cohort repayment rates and to require risk-sharing payments of institutions of higher education.

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 “Student Protection and
5 Success Act”.

1 **SEC. 2. INSTITUTIONAL INELIGIBILITY BASED ON LOW CO-**
 2 **HORT REPAYMENT RATE.**

3 (a) IN GENERAL.—Section 455 of the Higher Edu-
 4 cation Act of 1965 (20 U.S.C. 1087e), as amended by the
 5 FAFSA Simplification Act (title VII of division FF of
 6 Public Law 116–260) and the FAFSA Simplification Act
 7 Technical Corrections Act (Public Law 117–103), is
 8 amended by adding at the end the following:

9 “(q) INELIGIBILITY DUE TO LOW COHORT REPAY-
 10 MENT RATE.—

11 “(1) IN GENERAL.—Beginning with fiscal year
 12 2027 and each succeeding fiscal year, an institution
 13 that has a cohort repayment rate that is equal to or
 14 less than 15 percent shall not be eligible to partici-
 15 pate in a program under this part for such fiscal
 16 year and for the 2 succeeding fiscal years.

17 “(2) APPEALS.—

18 “(A) IN GENERAL.—An institution may
 19 appeal the loss of eligibility under this sub-
 20 section to the Secretary within 30 days of re-
 21 ceiving notification from the Secretary of the
 22 loss of eligibility under this subsection.

23 “(B) CONTINUED PARTICIPATION.—Dur-
 24 ing an appeal under subparagraph (A), the Sec-
 25 retary may permit the institution to continue to
 26 participate in a program under this part if the

1 institution demonstrates to the satisfaction of
 2 the Secretary that the Secretary's calculation of
 3 its cohort repayment rate is not accurate, and
 4 that recalculation would increase its cohort re-
 5 payment rate to be more than 15 percent.

6 “(C) REQUIRED PAYMENT.—If an institu-
 7 tion continues to participate in a program
 8 under this part, and the institution's appeal of
 9 the loss of eligibility is unsuccessful, the institu-
 10 tion shall be required to pay to the Secretary an
 11 amount equal to the amount of loans made by
 12 the Secretary under this part to borrowers at-
 13 tending, or planning to attend, that institution
 14 during the pendency of such appeal and the in-
 15 terest, special allowance, reinsurance, and any
 16 related payments made by the Secretary (or
 17 which the Secretary is obligated to make) with
 18 respect to such loans.

19 “(3) COHORT REPAYMENT RATE.—

20 “(A) IN GENERAL.—In this subsection, the
 21 term ‘cohort repayment rate’ means, for any
 22 fiscal year beginning with fiscal year 2027—

23 “(i) in the case in which 30 or more
 24 borrowers at the institution enter repay-
 25 ment on Federal Direct Stafford Loans,

1 Federal Direct Unsubsidized Stafford
2 Loans, Federal Direct PLUS Loans, or
3 Federal Direct Consolidation Loans, re-
4 ceived for attendance at the institution, the
5 percentage of those borrowers who are not
6 in default and who make at least a one
7 dollar reduction on their initial student
8 loan principal balance before the end of the
9 second fiscal year following the fiscal year
10 in which the borrowers entered repayment,
11 except as provided in subparagraph (B);
12 and

13 “(ii) in the case in which less than 30
14 borrowers at the institution enter repay-
15 ment on Federal Direct Stafford Loans,
16 Federal Direct Unsubsidized Stafford
17 Loans, Federal Direct PLUS Loans, or
18 Federal Direct Consolidation Loans, re-
19 ceived for attendance at the institution, the
20 percentage of those borrowers plus all of
21 the borrowers at the institution who en-
22 tered repayment on such loans (or on the
23 portion of a loan made under section 428C
24 that is used to repay any such loans) in
25 the 3 fiscal years preceding the fiscal year

1 for which the determination is made, who
2 are not in default and who make at least
3 a one dollar reduction on their initial stu-
4 dent loan principal balance before the end
5 of the second fiscal year following the year
6 in which the borrowers entered repayment,
7 except as provided in subparagraph (B).

8 “(B) EXCEPTION.—The ‘cohort repayment
9 rate’ calculation under subparagraph (A) shall
10 not include in the calculation a borrower who
11 is—

12 “(i) in deferment on repayment of a
13 loan described in subparagraph (A) due to
14 study in an approved graduate fellowship
15 program or in an approved rehabilitation
16 training program for the disabled;

17 “(ii) in deferment on repayment of a
18 loan described in subparagraph (A) during
19 a period of at least half-time enrollment in
20 college or a career school;

21 “(iii) in deferment on repayment of a
22 loan described in subparagraph (A) during
23 a period of service qualifying for loan dis-
24 charge or cancellation under part E;

1 “(iv) in deferment on repayment of a
2 loan described in subparagraph (A) due to
3 active duty military service of the borrower
4 during a war, military operation, or na-
5 tional emergency;

6 “(v) in deferment on repayment of a
7 loan described in subparagraph (A) during
8 the 13 months following the conclusion of
9 qualifying active duty military service by
10 the borrower, or until the borrower returns
11 to enrollment on at least a half-time basis,
12 whichever is earlier, if the borrower is a
13 member of the National Guard or other re-
14 serve component of the Armed Forces and
15 was called or ordered to active duty while
16 enrolled at least half-time at an eligible
17 school or within 6 months of having been
18 enrolled at least half-time;

19 “(vi) in mandatory forbearance on re-
20 payment of a loan described in subpara-
21 graph (A) for the full fiscal year; or

22 “(vii) serving as a volunteer under the
23 Peace Corps Act (22 U.S.C. 2501 et seq.)
24 or the Domestic Volunteer Service Act of
25 1973 (42 U.S.C. 4950 et seq.).

1 “(C) PUBLICATION OF REPAYMENT
2 RATES.—The Secretary shall publish the cohort
3 repayment rates for institutions determined
4 under this subsection.

5 “(4) NOTIFICATION.—Beginning with the first
6 fiscal year for which data are available after the date
7 of enactment of the Student Protection and Success
8 Act and each succeeding fiscal year until fiscal year
9 2027, the Secretary shall notify each institution that
10 has a cohort repayment rate that is equal to or less
11 than 15 percent that the institution risks losing eli-
12 gibility to participate in a program under this
13 part.”.

14 (b) INELIGIBILITY IN OTHER PROGRAMS.—

15 (1) PELL GRANTS.—The Higher Education Act
16 of 1965 (20 U.S.C. 1001 et seq.), as amended by
17 the FAFSA Simplification Act (title VII of division
18 FF of Public Law 116–260) and the FAFSA Sim-
19 plification Act Technical Corrections Act (Public
20 Law 117–103), is amended in section 401(j)—

21 (A) in the heading, by striking “BASED ON
22 DEFAULT RATES”;

23 (B) in paragraph (1), by inserting “until
24 fiscal year 2027” after “succeeding fiscal year”;

(C) in paragraph (2), by inserting “or cohort repayment rate determination” after “default rate determination”; and

(D) by adding at the end the following:

“(3) INELIGIBILITY BASED ON LOW COHORT REPAYMENT RATES.—No institution of higher education shall be an eligible institution for purposes of this subpart if such institution of higher education is ineligible to participate in a program under part D due to a low cohort repayment rate, as determined under section 455(q).”.

(2) STUDENT LOAN INSURANCE PROGRAM.—Section 435(a) of the Higher Education Act of 1965 (20 U.S.C. 1085(a)) is amended—

(A) in paragraph (2)—

(i) in the heading, by striking “BASED ON HIGH DEFAULT RATES”;

(ii) in subparagraph (A), by striking “An institution” and inserting “Until fiscal year 2027, an institution”; and

(iii) by adding at the end the following:

“(E) No institution of higher education shall be an eligible institution for purposes of this part if such institution of higher education is ineligible to

participate in a program under part D due to a low cohort repayment rate, as determined under section 455(q).”; and

(B) in paragraph (6)(A), by inserting “and until fiscal year 2027,” after “July 1, 1999,”.

(3) FEDERAL PERKINS LOANS.—Section 462 of the Higher Education Act of 1965 (20 U.S.C. 1087bb) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by inserting “or the institution is ineligible to participate in a program under part D due to a low cohort repayment rate, as determined under section 455(q)” after “subsection (f)”; and

(ii) in paragraph (2)(D), by inserting “or the institution is ineligible to participate in a program under part D due to a low cohort repayment rate, as determined under section 455(q)” after “subsection (f)”; and

(B) in subsection (b)—

(i) in paragraph (2), by inserting “or the institution is ineligible to participate in a program under part D due to a low co-

hort repayment rate, as determined under
section 455(q)” after “subsection (f)”; and

(ii) in paragraph (3), by inserting “or
the institution is ineligible to participate in
a program under part D due to a low co-
hort repayment rate, as determined under
section 455(q)” after “subsection (f)”;
(C) in subsection (e)—

(i) in paragraph (2), by inserting
“until fiscal year 2027,” after “succeeding
fiscal year”; and

(ii) in paragraph (3)—

(I) in subparagraph (A), by in-
serting “until fiscal year 2027,” after
“any succeeding fiscal year”; and

(II) by adding at the end the fol-
lowing:

“(F) LOW COHORT REPAYMENT RATES.—

An institution that is ineligible to participate in
a program under part D due to a low cohort re-
payment rate, as determined under section
455(q), shall not be eligible to participate in a
program under this part.”; and

(D) in subsection (f)(2), by inserting “until
fiscal year 2027,” after “subsequent years”.

1 **SEC. 3. COLLEGE OPPORTUNITY BONUS PROGRAM.**

2 Subpart 1 of part A of title IV of the Higher Edu-
 3 cation Act of 1965 (20 U.S.C. 1070a et seq.) is amended
 4 by adding at the end the following:

5 **“SEC. 401B. COLLEGE OPPORTUNITY BONUS PROGRAM.**

6 “(a) PROGRAM AUTHORITY.—

7 “(1) IN GENERAL.—Beginning with fiscal year
 8 2027 and each succeeding fiscal year, the Secretary
 9 shall award grants to eligible institutions of higher
 10 education that are distributed under a formula de-
 11 termined by the Secretary under subsection (d).

12 “(2) ELIGIBLE INSTITUTION.—In this section,
 13 the term ‘eligible institution of higher education’
 14 means an institution of higher education that has a
 15 cohort repayment rate (as defined in section
 16 455(q)(3)) that is greater than 25 percent.

17 “(b) GRANTS.—The Secretary shall award grants to
 18 eligible institutions of higher education that the Secretary
 19 determines have a strong record of making college more
 20 affordable and increasing college access and success for
 21 low-income and moderate-income students.

22 “(c) USES OF FUNDS.—Each eligible institution of
 23 higher education that receives a grant under this section
 24 may use the grant funds to support reforms to further
 25 increase college access and success for low- and moderate-
 26 income students, by making key investments and adopting

1 best practices, including by considering best practices re-
 2 ported under section 5 of the Student Protection and Suc-
 3 cess Act, and by—

4 “(1) awarding additional need-based financial
 5 aid to students enrolled at the institution who are el-
 6 igible to receive a Federal Pell Grant;

7 “(2) enhancing academic and student support
 8 services; and

9 “(3) establishing or expanding accelerated
 10 learning opportunities.

11 “(d) AMOUNT OF GRANT FUNDS.—

12 “(1) IN GENERAL.—Each eligible institution of
 13 higher education that receives a grant under this
 14 section shall receive annual grant funds based on a
 15 formula determined by the Secretary that equally
 16 considers—

17 “(A) the number and percentage of stu-
 18 dents enrolled at the institution who are eligible
 19 to receive a Federal Pell Grant;

20 “(B) the cohort repayment rate (as defined
 21 in section 455(q)(3)) of students enrolled at the
 22 institution who are eligible to receive a Federal
 23 Pell Grant; and

1 “(C) the institution’s student service ex-
2 penditures as a percentage of the institution’s
3 student service resources.

4 “(2) CAP.—Each eligible institution of higher
5 education that receives a grant under this section
6 shall receive grant funds for a fiscal year in an
7 amount that is not more than 2.5 percent of the
8 amount equal to the eligible institution’s total an-
9 nual revenues and investment returns less auxiliary
10 enterprise revenues and hospital revenues, as defined
11 in the IPEDS Finance Survey, for the most recent
12 fiscal year upon which the eligible institution’s au-
13 dited financial reports are available.

14 “(e) SUPPLEMENT NOT SUPPLANT.—Funds made
15 available under this section shall be used to supplement,
16 and not supplant—

17 “(1) other State funds that States would other-
18 wise expend to carry out activities under this section
19 to improve college affordability and graduate addi-
20 tional low- and moderate-income students; and

21 “(2) institutional funds that eligible institutions
22 of higher education receiving a grant under this sec-
23 tion would otherwise expend to carry out activities
24 under this section to improve college affordability

1 and graduate additional low- and moderate-income
2 students.

3 “(f) FUNDING.—The grant program under this sec-
4 tion shall be funded only with risk-sharing payments re-
5 ceived by the Secretary under section 454(d).”.

6 **SEC. 4. RISK-SHARING PAYMENTS.**

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

9 (1) in subsection (a)—

10 (A) in paragraph (5), by striking “and”
11 after the semicolon;

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

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

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

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

19 “(d) INSTITUTIONAL RISK-SHARING BASED ON CO-
20 HORT NONREPAYMENT LOAN BALANCES.—

21 “(1) IN GENERAL.—Beginning with fiscal year
22 2027 and each succeeding fiscal year, each institu-
23 tion of higher education participating in the direct
24 student loan program under this part shall remit to
25 the Secretary, at such times as the Secretary may

1 specify, a risk-sharing payment based on the cohort
 2 nonrepayment loan balance of the institution, as de-
 3 termined under paragraph (2).

4 “(2) DETERMINATION OF RISK-SHARING PAY-
 5 MENTS.—

6 “(A) DETERMINATION OF COHORT LOAN
 7 BALANCE.—The cohort loan balance of an insti-
 8 tution for a fiscal year equals the total principal
 9 amount of all loans made under this part to at-
 10 tend such institution for the cohort of bor-
 11 rowers who entered repayment, deferment, or
 12 forbearance on such loans in the third pre-
 13 ceding fiscal year for which the determination is
 14 made.

15 “(B) DETERMINATION OF COHORT NON-
 16 REPAYMENT LOAN BALANCE.—

17 “(i) IN GENERAL.—The cohort non-
 18 repayment loan balance of an institution
 19 for a fiscal year equals, from the total
 20 amount of the loans described in subpara-
 21 graph (A), the total loan balance of those
 22 borrowers who have not made at least a 1
 23 dollar reduction in their principal balance
 24 in the 3 consecutive fiscal years since their

1 loans entered repayment, deferment, or
2 forbearance.

3 “(ii) EXCEPTION.—The cohort non-
4 repayment loan balance calculation under
5 clause (i) shall not take into consideration
6 a borrower who was—

7 “(I) in deferment on repayment
8 of a loan described in subparagraph
9 (A) in the 3 consecutive fiscal years
10 described in clause (i) due to study in
11 an approved graduate fellowship pro-
12 gram or in an approved rehabilitation
13 training program for the disabled;

14 “(II) in deferment on repayment
15 of a loan described in subparagraph
16 (A) in the 3 consecutive fiscal years
17 described in clause (i) during which
18 time the borrower was in a period of
19 at least half-time enrollment in college
20 or a career school;

21 “(III) in deferment on repayment
22 of a loan described in subparagraph
23 (A) in the 3 consecutive fiscal years
24 described in clause (i) during which
25 time the borrower was in a period of

1 service qualifying for loan discharge
2 or cancellation under part E;

3 “(IV) in deferment on repayment
4 of a loan described in subparagraph
5 (A) in the 3 consecutive fiscal years
6 described in clause (i) during which
7 time the borrower was on active duty
8 military service during a war, military
9 operation, or national emergency;

10 “(V) in mandatory forbearance
11 on repayment of a loan described in
12 subparagraph (A) for the full fiscal
13 year; or

14 “(VI) serving as a volunteer
15 under the Peace Corps Act (22 U.S.C.
16 2501 et seq.) or the Domestic Volun-
17 teer Service Act of 1973 (42 U.S.C.
18 4950 et seq.), during the 3 consecu-
19 tive fiscal years described in clause
20 (i).

21 “(C) DETERMINATION OF PAYMENT.—

22 “(i) IN GENERAL.—

23 “(I) IN GENERAL.—Except as
24 provided in subclause (II), the risk-
25 sharing payment of an institution for

1 a fiscal year equals 2 percent of the
 2 amount determined under clause (ii).

3 “(II) CAP.—The risk-sharing
 4 payment of an institution for a fiscal
 5 year shall not be more than 2.5 per-
 6 cent of the amount equal to the insti-
 7 tution’s total annual revenues and in-
 8 vestment returns less auxiliary enter-
 9 prise revenues and hospital revenues,
 10 as defined in the IPEDS Finance
 11 Survey, for the most recent fiscal year
 12 upon which the institution’s audited
 13 financial reports are available.

14 “(ii) AMOUNT BASED ON COHORT
 15 NONREPAYMENT LOAN BALANCE AND UN-
 16 EMPLOYMENT RATE.—

17 “(I) IN GENERAL.—The amount
 18 under this clause is determined by
 19 subtracting the amount determined
 20 under subclause (II) from the cohort
 21 nonrepayment loan balance deter-
 22 mined under subparagraph (B).

23 “(II) AMOUNT BASED ON UNEM-
 24 PLOYMENT RATE.—The amount under
 25 this subclause is determined by multi-

1 plying the average national unemploy-
2 ment rate, as defined by the Bureau
3 of Labor Statistics, for the 3 previous
4 fiscal years from the date of the de-
5 termination by the cohort loan balance
6 determined under subparagraph (A).

7 “(3) NOTIFICATION.—Beginning with the first
8 fiscal year for which data are available after the date
9 of enactment of the Student Protection and Success
10 Act and each succeeding fiscal year until fiscal year
11 2027, the Secretary shall notify each institution of
12 higher education participating in the direct student
13 loan program under this part of what the risk-shar-
14 ing payment based on the cohort nonrepayment loan
15 balance of the institution, as determined under para-
16 graph (2), would be for such institution if such pro-
17 vision were in effect.”.

18 **SEC. 5. REPORT.**

19 Not later than 6 months after the date of enactment
20 of the Student Protection and Success Act, the Secretary
21 of Education shall submit to Congress a report—

22 (1) on best practices for institutions of higher
23 education to improve repayment rates; and

24 (2) that makes recommendations on how insti-
25 tutions of higher education can improve repayment

1 rates, with a particular emphasis on institutions that
 2 serve a high proportion of low-income students.

3 **SEC. 6. STUDENT SERVICE EXPENDITURES AND RE-**
 4 **SOURCES.**

5 Section 153(a)(1)(I) of the Education Sciences Re-
 6 form Act of 2002 (20 U.S.C. 9543(a)(1)(I)) is amended
 7 to read as follows:

8 “(I) the financing and management of edu-
 9 cation, including data on revenues and expendi-
 10 tures, and information regarding—

11 “(i) student service expenditures,
 12 that—

13 “(I) includes instruction, infor-
 14 mation technology, and other activities
 15 whose primary purpose is to con-
 16 tribute to students’ emotional and
 17 physical well-being and to their intel-
 18 lectual, cultural, and social develop-
 19 ment inside and outside the context of
 20 the formal instructional program; and

21 “(II) does not include expendi-
 22 tures on marketing, recruitment, or
 23 intercollegiate athletic programs;

24 “(ii) student service resources, which
 25 is a measure of an institution’s resources

1 that could reasonably be allocated towards
2 student service expenditures, including net
3 tuition revenues, State and local appropria-
4 tions, endowment income, and revenues re-
5 lated to student housing and food services
6 less expenditures on student housing, food
7 services, and the operations and mainte-
8 nance of a plant; and
9 “(iii) recruitment and marketing ex-
10 penditures;”.

○