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S. 1939

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

AUGUST 5, 2015

Mrs. SHAHEEN (for herself and Mr. HATCH) 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) is amended by add-
 5 ing at the end the following:

6 “(r) INELIGIBILITY DUE TO LOW COHORT REPAY-
 7 MENT RATE.—

8 “(1) IN GENERAL.—Beginning with the first
 9 fiscal year for which data is available after the date
 10 of enactment of the Student Protection and Success
 11 Act and each succeeding fiscal year, an institution
 12 that has a cohort repayment rate that is equal to or
 13 less than the cut-off rate, as determined under para-
 14 graph (2), shall not be eligible to participate in a
 15 program under this part for such fiscal year and for
 16 the 2 succeeding fiscal years.

17 “(2) CUT-OFF RATE.—

18 “(A) FIRST YEAR.—For the first fiscal
 19 year for which data is available after the date
 20 of enactment of the Student Protection and
 21 Success Act, the cut-off rate for purposes of
 22 paragraph (1) shall be equal to 45 percent.

23 “(B) SUBSEQUENT YEARS.—For each fis-
 24 cal year after the first fiscal year for which
 25 data is available after the date of enactment of
 26 the Student Protection and Success Act, the

1 cut-off rate for purposes of paragraph (1) for
2 an institution shall be the previous fiscal year's
3 cut-off rate or 10 percentage points lower than
4 the average cohort repayment rate determined
5 under subparagraph (C) for the same type of
6 institution for the previous fiscal year, which-
7 ever rate is higher, but not equal to or more
8 than 70 percent.

9 “(C) AVERAGE RATES.—Beginning with
10 the first fiscal year for which data is available
11 after the date of enactment of the Student Pro-
12 tection and Success Act and each succeeding
13 fiscal year, the Secretary shall determine the
14 average cohort repayment rate for each of 2-
15 year institutions of higher education and 4-year
16 institutions of higher education in the United
17 States for the fiscal year and for the previous
18 fiscal year.

19 “(3) APPEALS.—

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

1 “(B) CONTINUED PARTICIPATION.—Dur-
2 ing an appeal under subparagraph (A), the Sec-
3 retary may permit the institution to continue to
4 participate in a program under this part if the
5 institution demonstrates to the satisfaction of
6 the Secretary that the Secretary’s calculation of
7 its cohort repayment rate is not accurate, and
8 that recalculation would increase its cohort re-
9 payment rate above the cut-off rate applicable
10 to such institution.

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

24 “(4) COHORT REPAYMENT RATE.—

1 “(A) IN GENERAL.—In this subsection, the
2 term ‘cohort repayment rate’ means, for any
3 fiscal year beginning with fiscal year 2016, in
4 which 30 or more borrowers at the institution
5 enter repayment on Federal Direct Stafford
6 Loans, Federal Direct Unsubsidized Stafford
7 Loans, or Federal Direct Consolidation Loans,
8 received for attendance at the institution, the
9 percentage of those borrowers who are not in
10 default and who make at least a one dollar re-
11 duction on their initial student loan principal
12 balance before the end of the second fiscal year
13 following the fiscal year in which the borrowers
14 entered repayment, except as provided in sub-
15 paragraph (B).

16 “(B) EXCEPTION.—The ‘cohort repayment
17 rate’ calculation under subparagraph (A) shall
18 not include in the calculation a borrower who
19 is—

20 “(i) in deferment on repayment of a
21 loan described in subparagraph (A) due to
22 study in an approved graduate fellowship
23 program or in an approved rehabilitation
24 training program for the disabled;

1 “(ii) in deferment on repayment of a
2 loan described in subparagraph (A) during
3 a period of at least half-time enrollment in
4 college or a career school;

5 “(iii) in deferment on repayment of a
6 loan described in subparagraph (A) during
7 a period of service qualifying for loan dis-
8 charge or cancellation under part E;

9 “(iv) in deferment on repayment of a
10 loan described in subparagraph (A) due to
11 active duty military service of the borrower
12 during a war, military operation, or na-
13 tional emergency;

14 “(v) in deferment on repayment of a
15 loan described in subparagraph (A) during
16 the 13 months following the conclusion of
17 qualifying active duty military service by
18 the borrower, or until the borrower returns
19 to enrollment on at least a half-time basis,
20 whichever is earlier, if the borrower is a
21 member of the National Guard or other re-
22 serve component of the Armed Forces and
23 was called or ordered to active duty while
24 enrolled at least half-time at an eligible

1 school or within 6 months of having been
2 enrolled at least half-time;

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

6 “(vii) serving as a volunteer under the
7 Peace Corps Act (22 U.S.C. 2501 et seq.)
8 or the Domestic Volunteer Service Act of
9 1973 (42 U.S.C. 4950 et seq.).

10 “(C) PUBLICATION OF REPAYMENT
11 RATES.—The Secretary shall publish the cohort
12 repayment rates for institutions determined
13 under this subsection.”.

14 (b) INELIGIBILITY IN OTHER PROGRAMS.—

15 (1) PELL GRANTS.—Section 401(j) of the High-
16 er Education Act of 1965 (20 U.S.C. 1070a(j)) is
17 amended—

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

20 (B) in paragraph (1), by inserting “until
21 the first fiscal year for which data is available,
22 as determined under section 455(r)(1)” after
23 “succeeding fiscal year”;

1 (C) in paragraph (2), by inserting “or co-
 2 hort repayment rate determination” after “de-
 3 fault rate determination”; and

4 (D) by adding at the end the following:

5 “(3) INELIGIBILITY BASED ON LOW COHORT
 6 REPAYMENT RATES.—No institution of higher edu-
 7 cation shall be an eligible institution for purposes of
 8 this subpart if such institution of higher education
 9 is ineligible to participate in a program under part
 10 D due to a low cohort repayment rate, as deter-
 11 mined under section 455(r).”.

12 (2) STUDENT LOAN INSURANCE PROGRAM.—
 13 Section 435(a) of the Higher Education Act of 1965
 14 (20 U.S.C. 1085(a)) is amended—

15 (A) in paragraph (2)—

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

18 (ii) in subparagraph (A), by striking
 19 “An institution” and inserting “Until the
 20 first fiscal year for which data is available,
 21 as determined under section 455(r)(1), an
 22 institution”; and

23 (iii) by adding at the end the fol-
 24 lowing:

1 “(E) No institution of higher education shall be
 2 an eligible institution for purposes of this part if
 3 such institution of higher education is ineligible to
 4 participate in a program under part D due to a low
 5 cohort repayment rate, as determined under section
 6 455(r).”; and

7 (B) in paragraph (6)(A), by inserting “and
 8 until the first fiscal year for which data is avail-
 9 able, as determined under section 455(r)(1),”
 10 after “July 1, 1999,”.

11 (3) FEDERAL PERKINS LOANS.—Section 462 of
 12 the Higher Education Act of 1965 (20 U.S.C.
 13 1087bb) is amended—

14 (A) in subsection (a)—

15 (i) in paragraph (1), by inserting “or
 16 the institution is ineligible to participate in
 17 a program under part D due to a low co-
 18 hort repayment rate, as determined under
 19 section 455(r)” after “subsection (f)”; and

20 (ii) in paragraph (2)(D), by inserting
 21 “or the institution is ineligible to partici-
 22 pate in a program under part D due to a
 23 low cohort repayment rate, as determined
 24 under section 455(r)” after “subsection
 25 (f)”;

1 (B) in subsection (b)—

2 (i) in paragraph (2), by inserting “or
3 the institution is ineligible to participate in
4 a program under part D due to a low co-
5 hort repayment rate, as determined under
6 section 455(r)” after “subsection (f)”; and

7 (ii) in paragraph (3), by inserting “or
8 the institution is ineligible to participate in
9 a program under part D due to a low co-
10 hort repayment rate, as determined under
11 section 455(r)” after “subsection (f)”; and

12 (C) in subsection (e)—

13 (i) in paragraph (2), by inserting
14 “until the first fiscal year for which data
15 is available, as determined under section
16 455(r)(1),” after “succeeding fiscal year”;
17 and

18 (ii) in paragraph (3)—

19 (I) in subparagraph (A), by in-
20 serting “until the first fiscal year for
21 which data is available, as determined
22 under section 455(r)(1),” after “any
23 succeeding fiscal year”; and

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

1 “(F) LOW COHORT REPAYMENT RATES.—

2 An institution that is ineligible to participate in
 3 a program under part D due to a low cohort re-
 4 payment rate, as determined under section
 5 455(r), shall not be eligible to participate in a
 6 program under this part.”; and

7 (D) in subsection (f)(2), by inserting “until
 8 the first fiscal year for which data is available,
 9 as determined under section 455(r)(1),” after
 10 “subsequent years”.

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

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

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

16 “(a) PROGRAM AUTHORITY.—The Secretary shall
 17 award grants to eligible institutions of higher education
 18 that are distributed under a formula determined by the
 19 Secretary that includes enrollment of and completion by
 20 students who are eligible to receive a Federal Pell Grant,
 21 as well as enrollment of and completion by transfer stu-
 22 dents who are eligible to receive a Federal Pell Grant.

23 “(b) GRANTS.—The Secretary shall award grants to
 24 eligible institutions of higher education that the Secretary
 25 determines have a strong record of making college more

1 affordable and increasing college access and success for
2 low-income and moderate-income students.

3 “(c) USES OF FUNDS.—Each eligible institution of
4 higher education that receives a grant under this section
5 may use the grant funds to support reforms to further
6 increase college access and success for low- and moderate-
7 income students, by making key investments and adopting
8 best practices, such as—

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

12 “(2) enhancing academic and student support
13 services; and

14 “(3) establishing or expanding accelerated
15 learning opportunities.

16 “(d) AMOUNT OF GRANT FUNDS.—Each eligible in-
17 stitution of higher education that receives a grant under
18 this section shall receive annual grant funds based on a
19 formula determined by the Secretary that includes—

20 “(1) the number of students enrolled at the in-
21 stitution who are eligible to receive a Federal Pell
22 Grant;

23 “(2) a per-student base amount, which shall be
24 based on the amounts of Federal Pell Grants re-
25 ceived by students enrolled at the institution; and

1 “(3) the number of students enrolled at the in-
 2 stitution who are eligible to receive a Federal Pell
 3 Grant who transferred into the institution.

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

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

11 “(2) institutional funds that eligible institutions
 12 of higher education receiving a grant under this sec-
 13 tion would otherwise expend to carry out activities
 14 under this section to improve college affordability
 15 and graduate additional low- and moderate-income
 16 students.

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

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

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

23 (1) in subsection (a)—

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

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

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

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

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

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

10 “(1) IN GENERAL.—Each institution of higher
 11 education participating in the direct student loan
 12 program under this part for a fiscal year shall remit
 13 to the Secretary, at such times as the Secretary may
 14 specify, a risk-sharing payment based on the cohort
 15 nonrepayment loan balance of the institution, as de-
 16 termined under paragraph (2).

17 “(2) DETERMINATION OF RISK-SHARING PAY-
 18 MENTS.—

19 “(A) DETERMINATION OF COHORT LOAN
 20 BALANCE.—The cohort loan balance of an insti-
 21 tution for a fiscal year equals the total principal
 22 amount of all loans made under this part (ex-
 23 cept Federal Direct PLUS Loans) to attend
 24 such institution for the cohort of borrowers who
 25 entered repayment, deferment, or forbearance

on such loans in the third preceding fiscal year
for which the determination is made.

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

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

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

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

1 “(II) in deferment on repayment
2 of a loan described in subparagraph
3 (A) in the 3 consecutive fiscal years
4 described in clause (i) during which
5 time the borrower was in a period of
6 at least half-time enrollment in college
7 or a career school;

8 “(III) in deferment on repayment
9 of a loan described in subparagraph
10 (A) in the 3 consecutive fiscal years
11 described in clause (i) during which
12 time the borrower was in a period of
13 service qualifying for loan discharge
14 or cancellation under part E;

15 “(IV) in deferment on repayment
16 of a loan described in subparagraph
17 (A) in the 3 consecutive fiscal years
18 described in clause (i) during which
19 time the borrower was on active duty
20 military service during a war, military
21 operation, or national emergency;

22 “(V) in mandatory forbearance
23 on repayment of a loan described in
24 subparagraph (A) for the full fiscal
25 year; or

“(VI) serving as a volunteer under the Peace Corps Act (22 U.S.C. 2501 et seq.) or the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.), during the 3 consecutive fiscal years described in clause (i).

“(C) DETERMINATION OF PAYMENT.—

“(i) IN GENERAL.—The risk-sharing payment of an institution for a fiscal year equals 20 percent of the amount determined under clause (ii).

“(ii) AMOUNT BASED ON COHORT NONREPAYMENT LOAN BALANCE AND UNEMPLOYMENT RATE.—

“(I) IN GENERAL.—The amount under this clause is determined by subtracting the amount determined under subclause (II) from the cohort nonrepayment loan balance determined under subparagraph (B).

“(II) AMOUNT BASED ON UNEMPLOYMENT RATE.—The amount under this subclause is determined by multiplying the average national unemploy-

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

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