114TH CONGRESS
1ST SESSION

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

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Student Protection and Success Act''.

SEC. 2. INSTITUTIONAL INELIGIBILITY BASED ON LOW COHORT REPAYMENT RATE.

(a) IN GENERAL.—Section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e) is amended by adding at the end the following:

"(r) INELIGIBILITY DUE TO LOW COHORT REPAYMENT RATE.—

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

"(2) CUT-OFF RATE.—

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

"(B) SUBSEQUENT YEARS.—For each fiscal year after the first fiscal year for which data is available after the date of enactment of the Student Protection and Success Act, the cut-off rate for purposes of paragraph (1) for an institution shall be the previous fiscal year's cut-off rate or 10 percentage points lower than the average cohort repayment rate determined under subparagraph (C) for the same type of institution for the previous fiscal year, whichever rate is higher, but not equal to or more than 70 percent.

"(C) AVERAGE RATES.—Beginning with the first fiscal year for which data is available after the date of enactment of the Student Protection and Success Act and each succeeding fiscal year, the Secretary shall determine the average cohort repayment rate for each of 2-year institutions of higher education and 4-year institutions of higher education in the United States for the fiscal year and for the previous fiscal year.

"(3) APPEALS.—

"(A) IN GENERAL.—An institution may appeal the loss of eligibility under this subsection to the Secretary within 30 days of receiving notification from the Secretary of the loss of eligibility under this subsection.

"(B) CONTINUED PARTICIPATION.—During an appeal under subparagraph (A), the Secretary may permit the institution to continue to participate in a program under this part if the institution demonstrates to the satisfaction of the Secretary that the Secretary's calculation of its cohort repayment rate is not accurate, and that recalculation would increase its cohort repayment rate above the cut-off rate applicable to such institution.

"(C) REQUIRED PAYMENT.—If an institution continues to participate in a program under this part, and the institution's appeal of the loss of eligibility is unsuccessful, the institution shall be required to pay to the Secretary an amount equal to the amount of loans made by the Secretary under this part to borrowers attending, or planning to attend, that institution during the pendency of such appeal and the interest, special allowance, reinsurance, and any related payments made by the Secretary (or which the Secretary is obligated to make) with respect to such loans.

"(4) COHORT REPAYMENT RATE.—

"(A) IN GENERAL.—In this subsection, the term 'cohort repayment rate' means, for any fiscal year beginning with fiscal year 2016, in which 30 or more borrowers at the institution enter repayment on Federal Direct Stafford Loans, Federal Direct Unsubsidized Stafford Loans, or Federal Direct Consolidation Loans, received for attendance at the institution, the percentage of those borrowers who are not in default and who make at least a one dollar reduction on their initial student loan principal balance before the end of the second fiscal year following the fiscal year in which the borrowers entered repayment, except as provided in subparagraph (B).

"(B) EXCEPTION.—The 'cohort repayment rate' calculation under subparagraph (A) shall not include in the calculation a borrower who is—

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

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

"(iii) in deferment on repayment of a loan described in subparagraph (A) during a period of service qualifying for loan discharge or cancellation under part E;

"(iv) in deferment on repayment of a loan described in subparagraph (A) due to active duty military service of the borrower during a war, military operation, or national emergency;

"(v) in deferment on repayment of a loan described in subparagraph (A) during the 13 months following the conclusion of qualifying active duty military service by the borrower, or until the borrower returns to enrollment on at least a half-time basis, whichever is earlier, if the borrower is a member of the National Guard or other reserve component of the Armed Forces and was called or ordered to active duty while enrolled at least half-time at an eligible school or within 6 months of having been enrolled at least half-time;

"(vi) in mandatory forbearance on repayment of a loan described in subparagraph (A) for the full fiscal year; or

"(vii) 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.).

"(C) PUBLICATION OF REPAYMENT RATES.—The Secretary shall publish the cohort repayment rates for institutions determined under this subsection.".

(b) INELIGIBILITY IN OTHER PROGRAMS.—

(1) PELL GRANTS.—Section 401(j) of the Higher Education Act of 1965 (20 U.S.C. 1070a(j)) is amended—

(A) in the heading, by striking "BASED ON DEFAULT RATES";

(B) in paragraph (1), by inserting "until the first fiscal year for which data is available, as determined under section 455(r)(1)" 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(r).".

(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 the first fiscal year for which data is available, as determined under section 455(r)(1), 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(r).”; and

(B) in paragraph (6)(A), by inserting “and until the first fiscal year for which data is available, as determined under section 455(r)(1),” 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(r)” 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(r)” after “subsection (f)”;

(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 cohort repayment rate, as determined under section 455(r)" 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 cohort repayment rate, as determined under section 455(r)" after "subsection (f)";

(C) in subsection (e)—

(i) in paragraph (2), by inserting "until the first fiscal year for which data is available, as determined under section 455(r)(1)," after "succeeding fiscal year"; and

(ii) in paragraph (3)—

(I) in subparagraph (A), by inserting "until the first fiscal year for which data is available, as determined under section 455(r)(1)," after "any succeeding fiscal year"; and

(II) by adding at the end the following:

"(F) LOW COHORT REPAYMENT RATES.—An institution that is ineligible to participate in a program under part D due to a low cohort repayment rate, as determined under section 455(r), shall not be eligible to participate in a program under this part."; and

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

SEC. 3. COLLEGE OPPORTUNITY BONUS PROGRAM.

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

"SEC. 401B. COLLEGE OPPORTUNITY BONUS PROGRAM.

"(a) PROGRAM AUTHORITY.—The Secretary shall award grants to eligible institutions of higher education that are distributed under a formula determined by the Secretary that includes enrollment of and completion by students who are eligible to receive a Federal Pell Grant, as well as enrollment of and completion by transfer students who are eligible to receive a Federal Pell Grant.

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

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

"(1) awarding additional need-based financial aid to students enrolled at the institution who are eligible to receive a Federal Pell Grant;

"(2) enhancing academic and student support services; and

"(3) establishing or expanding accelerated learning opportunities.

"(d) AMOUNT OF GRANT FUNDS.—Each eligible institution of higher education that receives a grant under this section shall receive annual grant funds based on a formula determined by the Secretary that includes—

"(1) the number of students enrolled at the institution who are eligible to receive a Federal Pell Grant;

"(2) a per-student base amount, which shall be based on the amounts of Federal Pell Grants received by students enrolled at the institution; and

"(3) the number of students enrolled at the institution who are eligible to receive a Federal Pell Grant who transferred into the institution.

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

"(1) other State funds that States would otherwise expend to carry out activities under this section to improve college affordability and graduate additional low- and moderate-income students; and

"(2) institutional funds that eligible institutions of higher education receiving a grant under this section would otherwise expend to carry out activities under this section to improve college affordability and graduate additional low- and moderate-income students.

"(f) FUNDING.—The grant program under this section shall be funded only with risk-sharing payments received by the Secretary under section 454(d).".

SEC. 4. RISK-SHARING PAYMENTS.

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

(1) in subsection (a)—

(A) in paragraph (5), by striking "and";

(B) in paragraph (6), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(7) provide that the institution accepts the institutional risk-sharing requirements under subsection (d), if applicable."; and

(2) by adding at the end the following:

"(d) INSTITUTIONAL RISK-SHARING BASED ON COHORT NONREPAYMENT LOAN BALANCES.—

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

"(2) DETERMINATION OF RISK-SHARING PAYMENTS.—

"(A) DETERMINATION OF COHORT LOAN BALANCE.—The cohort loan balance of an institution for a fiscal year equals the total principal amount of all loans made under this part (except Federal Direct PLUS Loans) to attend such institution for the cohort of borrowers who 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 subparagraph (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 program or in an approved rehabilitation training program for the disabled;

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

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

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

“(V) in mandatory forbearance on repayment of a loan described in subparagraph (A) for the full fiscal 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 unemployment rate, as defined by the Bureau of Labor Statistics, for the 3 previous fiscal years from the date of the determination by the cohort loan balance determined under subparagraph (A).''.

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