

116TH CONGRESS  
1ST SESSION

# H. R. 4662

To amend the Higher Education Act of 1965 to require that institutions of higher education maintain certain adjusted cohort default rates to participate in programs under title IV of such Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 11, 2019

Ms. PORTER (for herself and Mr. TAKANO) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To amend the Higher Education Act of 1965 to require that institutions of higher education maintain certain adjusted cohort default rates to participate in programs under title IV of such Act, and for other purposes.

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 “Accountability in Stu-  
5 dent Loan Data Act”.

1 **SEC. 2. PROGRESS PERIOD STATUS.**

2 Section 103 of the Higher Education Act of 1965 (20  
3 U.S.C. 1003) is amended by adding at the end the fol-  
4 lowing:

5 “(25) PROGRESS PERIOD STATUS.—The term  
6 ‘progress period status’ means the status of an insti-  
7 tution of higher education that is determined by the  
8 Secretary to be in danger of failing to meet title IV  
9 eligibility criteria relating to student debt because  
10 the institution has an adjusted cohort default rate of  
11 not less than 10 percent and not more than 15 per-  
12 cent.”.

13 **SEC. 3. CONSUMER INFORMATION.**

14 Section 132 of the Higher Education Act of 1965 (20  
15 U.S.C. 1015a) is amended in subsection (i)(1)(T), by  
16 striking “rate,” and inserting “rate and adjusted cohort  
17 default rate,”.

18 **SEC. 4. FEDERAL PELL GRANTS.**

19 Section 401 of the Higher Education Act of 1965 (20  
20 U.S.C. 1070a) is amended in subsection (j)—

21 (1) in paragraph (1) by inserting before the pe-  
22 riod the following: “, or if such institution of higher  
23 education is subject to an ineligibility determination  
24 under section 435(a)(9)”; and

1           (2) in paragraph (2) by inserting “, final ad-  
2           justed cohort default rate, or on-time repayment  
3           rate” before “determination”.

4 **SEC. 5. DISBURSEMENT OF STUDENT LOANS.**

5           Section 428G of the Higher Education Act of 1965  
6 (20 U.S.C. 1078–7(a)) is amended—

7           (1) in subsection (a), by adding at the end the  
8           following:

9           “(5) ADJUSTED COHORT DEFAULT RATE.—Be-  
10          ginning on the date on which the final adjusted co-  
11          hort default rates are published by the Secretary for  
12          not less than 3 fiscal years under section 435(m), an  
13          institution whose adjusted cohort default rate (as de-  
14          termined under section 435(m)) for each of the 3  
15          most recent fiscal years for which data are available  
16          is less than 5 percent may disburse any loan made,  
17          insured, or guaranteed under this part in a single in-  
18          stallment for any period of enrollment that is not  
19          more than 1 semester, 1 trimester, 1 quarter, or 4  
20          months.”; and

21          (2) in subsection (e), by inserting before the pe-  
22          riod the following: “, or beginning on the date on  
23          which the final adjusted cohort default rates are  
24          published by the Secretary for fiscal year 2018  
25          under section 435(m), an adjusted cohort default

1 rate (as determined under section 435(m)) of less  
2 than 2 percent”.

3 **SEC. 6. COHORT DEFAULT RATES.**

4 (a) INELIGIBILITY BASED ON HIGH DEFAULT  
5 RATES.—

6 (1) IN GENERAL.—Section 435(a) of the High-  
7 er Education Act of 1965 (20 U.S.C. 1085(a)) is  
8 amended—

9 (A) in paragraph (7)(A), by adding at the  
10 end the following:

11 “(iii) DEFAULT MANAGEMENT  
12 PLAN.—The default management plan re-  
13 quired under clause (i) may not include  
14 placing students in forbearance as a means  
15 of reducing the cohort default rate or the  
16 adjusted cohort default rate of the institu-  
17 tion.”; and

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

19 “(9) INELIGIBILITY BASED ON HIGH ADJUSTED  
20 COHORT DEFAULT RATES.—

21 “(A) IN GENERAL.—Except as provided in  
22 subparagraphs (B) and (D), beginning on the  
23 date that is one year after the date on which  
24 the final adjusted cohort default rates are pub-  
25 lished by the Secretary for not less than 3 fiscal

1 years, in a case in which one of the following  
2 determinations is made with respect to an insti-  
3 tution, such institution shall be ineligible to  
4 participate in a program under this title for the  
5 fiscal year for which the determination is made  
6 and for the two succeeding fiscal years:

7 “(i) The institution’s adjusted cohort  
8 default rate is greater than 20 percent for  
9 each of the three most recent fiscal years  
10 for which the final adjusted cohort default  
11 rates are published.

12 “(ii) With respect to the six most re-  
13 cent fiscal years for which the final ad-  
14 justed cohort default rates are published—

15 “(I) the institution’s adjusted co-  
16 hort default rate is greater than 15  
17 percent for each such fiscal year; and

18 “(II) the Secretary determines  
19 that, during such 6-year period, the  
20 institution has not made adequate  
21 progress in meeting standards for stu-  
22 dent achievement established by the  
23 relevant accrediting agency or associa-  
24 tion pursuant to section 496(a)(5)(A).

1           “(iii) With respect to the eight most  
2           recent fiscal years for which the final ad-  
3           justed cohort default rates are published—

4                   “(I) the institution’s adjusted co-  
5                   hort default rate is greater than 10  
6                   percent for each such fiscal year; and

7                   “(II) the Secretary determines  
8                   that, during such 8-year period, the  
9                   institution has not made adequate  
10                  progress in meeting standards for stu-  
11                  dent achievement established by the  
12                  relevant accrediting agency or associa-  
13                  tion pursuant to section 496(a)(5)(A).

14           “(B) EXCEPTIONS FOR CERTAIN CAT-  
15           EGORIES OF EDUCATIONAL PROGRAMS.—With  
16           respect to an institution that loses eligibility to  
17           participate in a program under this title in ac-  
18           cordance with subparagraph (A)(ii), such insti-  
19           tution may request and be granted an exception  
20           to such loss of eligibility for a category of edu-  
21           cational programs at such institution by dem-  
22           onstrating to the Secretary that the adjusted  
23           cohort default rate for the category of edu-  
24           cational programs is 15 percent or less for each

1 fiscal year of the 6-year period on which such  
2 loss of eligibility for the institution is based.

3 “(C) DETERMINATION OF THE ADJUSTED  
4 COHORT RATE FOR A CATEGORY OF EDU-  
5 CATIONAL PROGRAMS.—In determining the ad-  
6 justed cohort default rate for a category of edu-  
7 cational programs for purposes of this para-  
8 graph—

9 “(i) subsection (m) shall be applied—

10 “(I) in paragraph (1)—

11 “(aa) in subparagraph (A),  
12 by substituting ‘received for en-  
13 rollment in the category of edu-  
14 cational programs for which such  
15 rate is being determined’ for ‘re-  
16 ceived for attendance at the insti-  
17 tution’; and

18 “(bb) in subparagraph  
19 (E)(i)(II), by substituting, ‘per-  
20 centage of students enrolled in  
21 the category of educational pro-  
22 grams for which such rate is  
23 being determined’ for ‘percentage  
24 of students enrolled at the insti-  
25 tution’; and

1                   “(II) as if the following were  
2                   added at the end of paragraph (2):

3                   “(E) In the case of a student who has re-  
4                   ceived a loan for enrollment in more than one  
5                   category of educational programs, the student  
6                   (and such student’s subsequent repayment or  
7                   default) is attributed to the last category of  
8                   educational programs in which such student  
9                   was enrolled.’.

10                  “(D) TRANSITION EXCEPTION.—

11                  “(i) IN GENERAL.—A covered institu-  
12                  tion with an adjusted cohort default rate  
13                  that is greater than 20 percent for the  
14                  first fiscal year for which such rates are  
15                  published by the Secretary may request  
16                  that any determination of such covered in-  
17                  stitution’s ineligibility under subparagraph  
18                  (A) not be based on the adjusted cohort  
19                  default rate of such covered institution for  
20                  any or all of the first 3 fiscal years for  
21                  which such rates are published by the Sec-  
22                  retary.

23                  “(ii) REQUIREMENT.—To be granted  
24                  a request under clause (i), a covered insti-  
25                  tution shall submit to the Secretary a de-



1 fault management plan as specified in  
2 paragraph (7).

3 “(iii) DEFINITION OF COVERED INSTI-  
4 TUTION.—In this subparagraph, the term  
5 ‘covered institution’ means—

6 “(I) a public institution of higher  
7 education;

8 “(II) a part B institution (as de-  
9 fined in section 322); or

10 “(III) a private, nonprofit insti-  
11 tution of higher education at which  
12 not less than 45 percent of the total  
13 student enrollment consists of low-in-  
14 come students (as such term is de-  
15 fined in section 419N(b)(7)).

16 “(E) CATEGORY OF EDUCATIONAL PRO-  
17 GRAMS DEFINED.—The term ‘category of edu-  
18 cational programs’, when used with respect to  
19 an institution, means one of the following:

20 “(i) The educational programs at the  
21 institution leading to an undergraduate,  
22 non-degree credential.

23 “(ii) The educational programs at the  
24 institution leading to an associate’s degree.

1                   “(iii) The educational programs at the  
2                   institution leading to a bachelor’s degree.

3                   “(iv) The educational programs at the  
4                   institution leading to a graduate, non-de-  
5                   gree credential.

6                   “(v) The educational program at the  
7                   institution leading to a graduate degree.

8                   “(10) APPLICATION OF ADJUSTED COHORT DE-  
9                   FAULT RATE.—Beginning on the date on which the  
10                  final adjusted cohort default rates are published by  
11                  the Secretary for not less than 3 fiscal years—

12                  “(A) paragraph (1) shall be applied by  
13                  substituting ‘paragraph (9)’ for ‘paragraph (2)’;

14                  “(B) paragraph (3) shall be applied by  
15                  substituting ‘adjusted cohort default rate, cal-  
16                  culated in accordance with subsection  
17                  (m)(1)(D), is greater than 20 percent for any  
18                  3 consecutive fiscal years’ for ‘cohort default  
19                  rate, calculated in accordance with subsection  
20                  (m), is equal to or greater than the threshold  
21                  percentage specified in paragraph (2)(B)(iv) for  
22                  any two consecutive fiscal years’;

23                  “(C) paragraph (4) shall be applied—

24                  “(i) in subparagraph (C), by sub-  
25                  stituting ‘adjusted cohort default rate is

1 greater than 15 percent’ for ‘cohort default  
2 rate equals or exceeds 20 percent’; and

3 “(ii) in the matter following subpara-  
4 graph (C), by substituting ‘adjusted cohort  
5 default rate to reflect the percentage of de-  
6 faulted loans in the representative sample  
7 that are required to be excluded pursuant  
8 to subsection (m)(1)(B)’ for ‘cohort default  
9 rate to reflect the percentage of defaulted  
10 loans in the representative sample that are  
11 required to be excluded pursuant to sub-  
12 section (m)(1)(B)’;

13 “(D) paragraph (5)(A) shall be applied by  
14 substituting ‘paragraph (9)’ for ‘paragraph (2)’;  
15 and

16 “(E) paragraph (7) shall be applied—

17 “(i) in subparagraph (A)(i)—

18 “(I) in the matter preceding sub-  
19 clause (I), by substituting ‘adjusted  
20 cohort default rate is greater than 20  
21 percent’ for ‘cohort default rate is  
22 equal to or greater than the threshold  
23 percentage specified in paragraph  
24 (2)(B)(iv)’; and

1                   “(II) in subclauses (I) and (II),  
2                   by substituting ‘adjusted cohort de-  
3                   fault rate’ for ‘cohort default rate’;  
4                   and

5                   “(ii) in subparagraph (B)(i), by sub-  
6                   stituting ‘adjusted cohort default rate is  
7                   greater than 20 percent’ for ‘cohort default  
8                   rate is equal to or greater than the thresh-  
9                   old percentage specified in paragraph  
10                  (2)(B)(iv)’.”.

11                  (2) CONFORMING AMENDMENTS.—Section  
12                  435(a)(2) of the Higher Education Act of 1965 (20  
13                  U.S.C. 1085(a)) is amended—

14                  (A) in the paragraph heading, by adding at  
15                  the end the following: “BEFORE FISCAL YEAR  
16                  2018”; and

17                  (B) in subparagraph (B)(iv), by striking  
18                  “and any succeeding fiscal year” and inserting  
19                  “through fiscal year 2017”.

20                  (b) ADJUSTED COHORT DEFAULT RATE DEFINED.—  
21                  Section 435(m)(1) of the Higher Education Act of 1965  
22                  (20 U.S.C. 1085(m)(1)) is amended by adding at the end  
23                  the following:

24                  “(D)(i) With respect to a cohort default  
25                  rate calculated for an institution under this

1 paragraph for fiscal year 2018 and for each  
2 succeeding fiscal year, such cohort default rate  
3 shall be adjusted as follows:

4 “(I) In determining the number of  
5 current and former students at an institu-  
6 tion who enter repayment for such fiscal  
7 year—

8 “(aa) any such student who is in  
9 nonmandatory forbearance for such  
10 fiscal year for a period of greater than  
11 18 months but less than 36 months  
12 shall not be counted as entering re-  
13 payment for such fiscal year;

14 “(bb) such a student shall be  
15 counted as entering repayment for the  
16 first fiscal year for which the student  
17 ceases to be in a period of forbearance  
18 and otherwise meets the requirements  
19 for being in repayment; and

20 “(cc) any such student who is in  
21 a period of forbearance for three or  
22 more years shall be counted as in de-  
23 fault and included in the institution’s  
24 total number of students in default.

1                   “(II) Such rate shall be multiplied by  
2                   the percentage of students enrolled at the  
3                   institution for such fiscal year who are  
4                   borrowing a loan under part D of this title.

5                   “(ii) The result obtained under this sub-  
6                   paragraph for an institution shall be referred to  
7                   in this Act as the ‘adjusted cohort default  
8                   rate’.”.

9                   (c) PUBLICATION OF ADJUSTED COHORT DEFAULT  
10                  RATE.—Section 435(m) of the Higher Education Act of  
11                  1965 (20 U.S.C. 1085(m)) is amended by adding at the  
12                  end the following:

13                   “(5) Beginning on the date on which the final  
14                   adjusted cohort default rates for fiscal year 2018 are  
15                   made available for publication by the Secretary,  
16                   paragraph (4) shall be applied by substituting ‘ad-  
17                   justed cohort default’ for ‘cohort default’ each place  
18                   it appears.”.

19                  **SEC. 7. ADJUSTED COHORT DEFAULT RATE.**

20                  Section 487(a)(14) of the Higher Education Act of  
21                  1965 is amended by adding at the end the following:

22                   “(D) Beginning on the date on which the  
23                   final adjusted cohort default rates are published  
24                   by the Secretary for fiscal year 2018 under sec-  
25                   tion 435(m), subparagraph (C) shall be applied

1 by substituting ‘adjusted cohort default rate in  
2 excess of 5 percent’ for ‘cohort default rate in  
3 excess of 10 percent’ each place it appears.”.

4 **SEC. 8. PROGRAM REVIEW AND DATA.**

5 Section 498A of the Higher Education Act of 1965  
6 (20 U.S.C. 1099c–1) is amended in subsection (a)(2), by  
7 striking subparagraph (A) and inserting the following:

8 “(A) institutions with an adjusted cohort  
9 default rate for loans under part D in excess of  
10 18 percent or which places such institutions in  
11 the highest 25 percent of such institutions;”.

12 **SEC. 9. ASSISTANCE TO PROGRESS PERIOD INSTITUTIONS.**

13 Part H of title IV of the Higher Education Act of  
14 1965 (20 U.S.C. 1099a et seq.) is amended by adding at  
15 the end the following:

16 **“SEC. 498C. ASSISTANCE TO PROGRESS PERIOD INSTITU-**  
17 **TIONS.**

18 “(a) IN GENERAL.—The Secretary shall provide  
19 grants and technical assistance to covered progress period  
20 institutions in accordance with this section.

21 “(b) AUTHORIZED ACTIVITIES.—Grants and assist-  
22 ance provided under this section shall be used to improve  
23 student achievement (as described in section  
24 496(a)(5)(A)) at covered progress period institutions.

1       “(c) DURATION.—Grants and assistance may be pro-  
2       vided under this section for a period of not less than one  
3       year and not more than three years.

4       “(d) CONDITIONS.—

5               “(1) BENCHMARKS.—

6                       “(A) IN GENERAL.—To continue to receive  
7                       support under this section after the first year in  
8                       which such support is provided, an institution  
9                       must show progress, as determined by the Sec-  
10                      retary, toward meeting the standards for stu-  
11                      dent achievement established by the relevant ac-  
12                      crediting agency or association pursuant to sec-  
13                      tion 496(a)(5)(A).

14                     “(B) CONSIDERATIONS.—In determining  
15                     the progress of an institution under subpara-  
16                     graph (A), the Secretary may take into consid-  
17                     eration extenuating circumstances that may  
18                     have contributed to the poor performance of the  
19                     institution in the first year of the review period.

20                     “(2) DEADLINE FOR COMPLIANCE.—An institu-  
21                     tion that does not achieve an adjusted cohort default  
22                     rate of less than 10 percent after receiving support  
23                     under this section for three consecutive years shall  
24                     be ineligible to receive further support under this  
25                     section.



1           “(3) PROHIBITION.—An institution shall be in-  
2 eligible to receive further support under this section  
3 if, while the institution was receiving such support,  
4 the total enrollment of low-income students (as such  
5 term is defined in section 419N(b)(7)) at the institu-  
6 tion decreased by 10 percent or more.

7           “(e) COVERED PROGRESS PERIOD INSTITUTION.—In  
8 this section, the term ‘covered progress period institution’  
9 means—

10           “(1) a public institution of higher education  
11 that is determined to be in progress period status;

12           “(2) a part B institution (as defined in section  
13 322) that is determined to be in progress period sta-  
14 tus; or

15           “(3) a private, nonprofit institution of higher  
16 education—

17           “(A) that is determined to be in progress  
18 period status; and

19           “(B) at which not less than 45 percent of  
20 the total student enrollment consists of low-in-  
21 come students (as such term is defined in sec-  
22 tion 419N(b)(7)).

23           “(f) FUNDING.—

24           “(1) IN GENERAL.—There are appropriated  
25 such funds as the Secretary, using the formula de-

1 scribed in paragraph (2), determines necessary to  
2 meet the needs of all eligible institutions under this  
3 subsection.

4 “(2) FORMULA.—Not later than 1 year after  
5 the date of the enactment of this section, the Sec-  
6 retary shall establish through negotiated rulemaking  
7 a formula to determine the—

8 “(A) proportional amount of institutional  
9 need under this section; and

10 “(B) total amount of institutional need  
11 under this section.

12 “(3) SPECIAL RULE.—Such formula must at  
13 minimum take into consideration the severity of the  
14 problem, size of the institution, institutional re-  
15 sources, historical underfunding, and the number of  
16 low-income students (as such term is defined in sec-  
17 tion 419N(b)(7)) being served.”.

○