

114TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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.

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IN THE SENATE OF THE UNITED STATES

Mrs. SHAHEEN (for herself and Mr. HATCH) introduced the following bill;  
which was read twice and referred to the Committee on

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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.

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 (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

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

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

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

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

19 “(I) in deferment on repayment  
20 of a loan described in subparagraph  
21 (A) in the 3 consecutive fiscal years  
22 described in clause (i) due to study in  
23 an approved graduate fellowship pro-  
24 gram or in an approved rehabilitation  
25 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



1                   “(VI) serving as a volunteer  
2                   under the Peace Corps Act (22 U.S.C.  
3                   2501 et seq.) or the Domestic Volun-  
4                   teer Service Act of 1973 (42 U.S.C.  
5                   4950 et seq.), during the 3 consecu-  
6                   tive fiscal years described in clause  
7                   (i).

8                   “(C) DETERMINATION OF PAYMENT.—

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

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

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

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