

113TH CONGRESS  
1ST SESSION

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

To provide for institutional risk-sharing in the Federal student loan programs.

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IN THE SENATE OF THE UNITED STATES

Mr. REED (for himself, Mr. DURBIN, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on

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**A BILL**

To provide for institutional risk-sharing in the Federal student loan programs.

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 “Protect Student Bor-  
5 rowers Act of 2013”.

6 **SEC. 2. PURPOSE.**

7       The purpose of this Act is to protect student bor-  
8 rowers by requiring institutions of higher education to as-  
9 sume some of the risk of default for student loans under

1 part D of title IV of the Higher Education Act of 1965  
2 (20 U.S.C. 1087a et seq.).

3 **SEC. 3. INSTITUTIONAL REBATES TO THE DEPARTMENT OF**  
4 **EDUCATION FOR DEFAULTED LOANS.**

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

7 (1) in subsection (a)—

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

9 (B) in paragraph (6) by striking the period  
10 at the end and inserting “; and”; and

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

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

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

16 “(d) INSTITUTIONAL RISK-SHARING FOR STUDENT  
17 LOAN DEFAULTS.—

18 “(1) IN GENERAL.—Subject to paragraph (3),  
19 each institution of higher education participating in  
20 the direct student loan program under this part for  
21 a fiscal year that has a rate of participation in such  
22 program for all students enrolled at that institution  
23 for such fiscal year that is 25 percent or higher shall  
24 remit, at such times as the Secretary may specify,  
25 a risk-sharing payment based on a percentage of the

1 volume of student loans under this part that are in  
2 default, as determined under paragraph (2).

3 “(2) DETERMINATION OF RISK-SHARING PAY-  
4 MENTS.—Subject to paragraph (3), with respect to  
5 each fiscal year, an institution of higher education  
6 described in paragraph (1) that has a cohort default  
7 rate (as defined in section 435(m))—

8 “(A) that is 30 percent or higher for the  
9 most recent fiscal year for which data are avail-  
10 able, shall pay to the Secretary for the fiscal  
11 year an amount that is equal to 20 percent of  
12 the total amount (including interest and collec-  
13 tion fees) of loans made under this part to stu-  
14 dents that are in default;

15 “(B) that is lower than 30 percent but not  
16 lower than 25 percent for the most recent fiscal  
17 year for which data are available, shall pay to  
18 the Secretary for the fiscal year an amount that  
19 is equal to 15 percent of the total amount (in-  
20 cluding interest and collection fees) of loans  
21 made under this part to students that are in  
22 default;

23 “(C) that is lower than 25 percent but not  
24 lower than 20 percent for the most recent fiscal  
25 year for which data are available, shall pay to

1 the Secretary for the fiscal year an amount that  
2 is equal to 10 percent of the total amount (in-  
3 cluding interest and collection fees) of loans  
4 made under this part to students that are in  
5 default; and

6 “(D) that is lower than 20 percent but not  
7 lower than 15 percent for the most recent fiscal  
8 year for which data are available, shall pay to  
9 the Secretary for the fiscal year an amount that  
10 is equal to 5 percent of the total amount (in-  
11 cluding interest and collection fees) of loans  
12 made under this part to students that are in  
13 default.

14 “(3) WAIVER AND REDUCED RISK-SHARING  
15 PAYMENTS.—

16 “(A) WAIVER.—The Secretary shall waive  
17 the risk-sharing payments described in para-  
18 graph (1) for an institution described in para-  
19 graph (2)(D) that meets the requirements of  
20 subparagraph (D).

21 “(B) REDUCED RISK-SHARING PAY-  
22 MENTS.—If an institution has in place a stu-  
23 dent loan management plan described in sub-  
24 paragraph (D) that is approved by the Sec-  
25 retary, the Secretary shall reduce the total an-

1           nual amount of risk sharing payments as fol-  
2           lows:

3                   “(i) With respect to an institution  
4                   with a cohort default rate described in  
5                   paragraph (2)(A), the risk sharing pay-  
6                   ment shall be in an amount that is equal  
7                   to 15 percent of the total amount (includ-  
8                   ing interest and collection fees) of loans  
9                   made under this part to students that are  
10                  in default.

11                   “(ii) With respect to an institution  
12                   with a cohort default rate described in  
13                   paragraph (2)(B), the risk sharing pay-  
14                   ment shall be in an amount that is equal  
15                   to 10 percent of the total amount (includ-  
16                   ing interest and collection fees) of loans  
17                   made under this part to students that are  
18                   in default.

19                   “(iii) With respect to an institution  
20                   with a cohort default rate described in  
21                   paragraph (2)(C), the risk sharing pay-  
22                   ment shall be in an amount that is equal  
23                   to 5 percent of the total amount (including  
24                   interest and collection fees) of loans made

1           under this part to students that are in de-  
2           fault.

3           “(C) CONTINUATION OF WAIVER OR RE-  
4           DUCED PAYMENTS.—An institution that re-  
5           ceives a waiver under subparagraph (A) or a re-  
6           duced risk-sharing payment under subpara-  
7           graph (B) may receive a waiver or reduced pay-  
8           ment for a subsequent fiscal year only if the  
9           Secretary determines that the institution is  
10          making satisfactory progress in carrying out the  
11          student loan management plan described in  
12          subparagraph (D), including evidence of the ef-  
13          fectiveness of the individualized financial aid  
14          counseling for students.

15          “(D) STUDENT LOAN MANAGEMENT  
16          PLAN.—An institution that seeks a waiver or  
17          reduction of its risk-sharing payment, shall de-  
18          velop and carry out a student loan management  
19          plan that shall include an analysis of the risk  
20          factors correlated with higher student loan de-  
21          faults that are present at the institution and  
22          actions that the institution will take to address  
23          such factors. Such plan shall include individual-  
24          ized financial aid counseling for students and

1 strategies to minimize student loan default and  
2 delinquency.

3 “(E) WAIVER OR REDUCTION FOR CER-  
4 TAIN INSTITUTIONS.—In addition to the other  
5 risk-sharing payment waivers and reductions  
6 described in this paragraph, the Secretary may  
7 waive or reduce risk sharing payments if—

8 “(i) an institution is eligible under—

9 “(I) part A or part B of title III;

10 or

11 “(II) title V; and

12 “(ii) the Secretary determines that—

13 “(I) the institution is making  
14 satisfactory progress in carrying out  
15 the institution’s student loan manage-  
16 ment plan described under subpara-  
17 graph (D); and

18 “(II) granting a waiver or reduc-  
19 tion of risk sharing payments would  
20 be in the best interest of students at  
21 the institution.

22 “(4) PROHIBITION.—An institution of higher  
23 education shall not deny admission or financial aid  
24 to a student based on a perception that such student

1       may be at risk for defaulting on a loan made under  
2       this part.

3               “(5) FUND FOR THE DEPOSIT OF RISK-SHAR-  
4       ING PAYMENTS.—

5               “(A) IN GENERAL.—There is established in  
6       the Treasury of the United States a separate  
7       account for the deposit of risk-sharing pay-  
8       ments collected under this subsection. The Sec-  
9       retary shall deposit any payments collected pur-  
10      suant to this subsection into such fund.

11              “(B) USE OF FUNDS.—Of the amounts in  
12      the fund described in subparagraph (A), for  
13      each fiscal year—

14              “(i) not more than 50 percent of such  
15      amounts shall be made available to the  
16      Secretary to enter into contracts or cooper-  
17      ative agreements for delinquency and de-  
18      fault prevention or rehabilitation under  
19      section 456(d); and

20              “(ii) the Secretary shall reserve the  
21      remainder of such amounts for a Federal  
22      Pell Grant fund that shall be used to offset  
23      any future shortfalls in funding under the  
24      Federal Pell Grant program.



1           “(6) APPLICABILITY.—The Secretary shall  
2 carry out this subsection beginning with the cohort  
3 default rate for the 2014 cohort. The 2014 cohort  
4 shall include current and former students who enter  
5 repayment in fiscal year 2014.

6           “(7) REPORT TO CONGRESS.—The Secretary  
7 shall report on an annual basis to the Committee on  
8 Health, Education, Labor, and Pensions of the Sen-  
9 ate and the Committee on Education and the Work-  
10 force of the House of Representatives the following  
11 information:

12                   “(A) A list of institutions that have been  
13 subject to risk-sharing payments in the previous  
14 year.

15                   “(B) The required risk-sharing payment  
16 from such institutions.

17                   “(C) The amount of risk-sharing payments  
18 collected from such institutions.

19                   “(D) A list of the institutions that have re-  
20 ceived waivers from the risk-sharing payment  
21 and the reason for such waiver.

22                   “(E) A list of the institutions that have re-  
23 ceived reductions in the required risk-sharing  
24 payment.

1           “(F) The use of funds deposited from risk-  
2           sharing payments, including a list of any con-  
3           tracts or cooperative agreements for delin-  
4           quency and default prevention or rehabilitation  
5           and the amount reserved for the Federal Pell  
6           Grant program.”.

7   **SEC. 4. CONTRACTS AND COOPERATIVE AGREEMENTS.**

8           Section 456 of the Higher Education Act of 1965 (20  
9   U.S.C. 1087f) is amended by adding at the end the fol-  
10   lowing:

11           “(d) **CONTRACTS AND COOPERATIVE AGREEMENTS**  
12   **FOR DELINQUENCY AND DEFAULT PREVENTION AND FOR**  
13   **DEFAULT REHABILITATION.**—The Secretary may enter  
14   into contracts or cooperative agreements for—

15           “(1) statewide or institutionally-based programs  
16           for the prevention of Federal student loan delin-  
17           quency and default at institutions of higher edu-  
18           cation that—

19                   “(A) have a high cohort default rate as de-  
20                   fined under section 435(m); or

21                   “(B) serve large numbers or percentages of  
22                   student loan borrowers who have a risk factor  
23                   associated with higher default rates on Federal  
24                   student loans under this title, such as coming  
25                   from a low-income family, being a first genera-

1           tion postsecondary education student, not hav-  
2           ing a secondary school diploma, or having pre-  
3           viously defaulted on, and rehabilitated, a loan  
4           made under this title; and  
5           “(2) increasing the number of borrowers who  
6           successfully rehabilitate defaulted loans.”.

7   **SEC. 5. FINANCIAL RESPONSIBILITY.**

8           Section 498(e)(1) of the Higher Education Act of  
9   1965 (20 U.S.C. 1099e(e)(1)) is amended by striking sub-  
10 paragraph (C) and inserting the following:

11                   “(C) to meet all of its financial obligations,  
12           including institutional risk-sharing payments,  
13           refunds of institutional charges, and repay-  
14           ments to the Secretary for liabilities and debts  
15           incurred in programs administered by the Sec-  
16           retary.”.