

117TH CONGRESS
2D SESSION

H. R. 7727

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.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2022

Ms. PORTER introduced the following bill; which was referred to the
Committee on Education and Labor

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 of 2022”.

6 **SEC. 2. PROGRESS PERIOD STATUS.**

7 Section 103 of the Higher Education Act of 1965 (20
8 U.S.C. 1003) is amended—

1 (1) by redesignating paragraphs (14) through
2 (24) as paragraphs (15) through (25), respectively;
3 and

4 (2) by inserting after paragraph (13) the fol-
5 lowing:

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

14 **SEC. 3. CONSUMER INFORMATION.**

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

19 **SEC. 4. FEDERAL PELL GRANTS.**

20 (a) **HIGHER EDUCATION ACT.**—Section 401(j) of the
21 Higher Education Act of 1965 (20 U.S.C. 1070a(j)) is
22 amended—

23 (1) in paragraph (1), by inserting before the pe-
24 riod the following: “, or if such institution of higher

1 education is subject to an ineligibility determination
2 under section 435(a)(9)”; and

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

6 (b) FAFSA SIMPLIFICATION ACT.—

7 (1) AMENDMENT.—Section 401(j) of the High-
8 er Education Act of 1965 (20 U.S.C. 1070a(j)), as
9 amended by section 703 of the FAFSA Simplifica-
10 tion Act (title VII of division FF of Public Law
11 116–260), is amended—

12 (A) in paragraph (1), by inserting before
13 the period the following: “, or if such institution
14 of higher education is subject to an ineligibility
15 determination under section 435(a)(9)”; and

16 (B) in paragraph (2), by inserting “, final
17 adjusted cohort default rate, or on-time repay-
18 ment rate,” before “determination”.

19 (2) EFFECTIVE DATE.—The amendment made
20 by paragraph (1) shall take effect as if included in
21 section 703 of the FAFSA Simplification Act (title
22 VII of division FF of Public Law 116–260) on the
23 date of enactment of such Act.

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

2 Section 428G of the Higher Education Act of 1965
3 (20 U.S.C. 1078–7(a)) is amended—

4 (1) in subsection (a), by adding at the end the
5 following:

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

18 (2) in subsection (e), by inserting before the pe-
19 riod the following: “or, beginning on the date on
20 which the final adjusted cohort default rates are
21 published by the Secretary for fiscal year 2021
22 under section 435(m), an adjusted cohort default
23 rate (as determined under section 435(m)) of less
24 than 2 percent”.

1 **SEC. 6. COHORT DEFAULT RATES.**

2 (a) INELIGIBILITY BASED ON HIGH DEFAULT
3 RATES.—

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

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

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

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

17 “(9) INELIGIBILITY BASED ON HIGH ADJUSTED
18 COHORT DEFAULT RATES.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraphs (B) and (D), beginning on the
21 date that is one year after the date on which
22 the final adjusted cohort default rates are pub-
23 lished by the Secretary for not less than 3 fiscal
24 years, in a case in which one of the following
25 determinations is made with respect to an insti-
26 tution, such institution shall be ineligible to

1 participate in a program under this title for the
2 fiscal year for which the determination is made
3 and for the two succeeding fiscal years:

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

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

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

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

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

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

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

11 “(B) EXCEPTIONS FOR CERTAIN CAT-
12 EGORIES OF EDUCATIONAL PROGRAMS.—With
13 respect to an institution that loses eligibility to
14 participate in a program under this title in ac-
15 cordance with subparagraph (A)(ii), such insti-
16 tution may request and be granted an exception
17 to such loss of eligibility for a category of edu-
18 cational programs at such institution by dem-
19 onstrating to the Secretary that the adjusted
20 cohort default rate for the category of edu-
21 cational programs is 15 percent or less for each
22 fiscal year of the 6-year period on which such
23 loss of eligibility for the institution is based.

24 “(C) DETERMINATION OF THE ADJUSTED
25 COHORT RATE FOR A CATEGORY OF EDU-

1 CATIONAL PROGRAMS.—In determining the ad-
2 justed cohort default rate for a category of edu-
3 cational programs for purposes of this para-
4 graph—

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

6 “(I) in paragraph (1)—

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

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

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

24 “(E) In the case of a student who has re-
25 ceived a loan for enrollment in more than one

1 category of educational programs, the student
2 (and such student's subsequent repayment or
3 default) is attributed to the last category of
4 educational programs in which such student
5 was enrolled.'.

6 “(D) TRANSITION EXCEPTION.—

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

19 “(ii) REQUIREMENT.—To be granted
20 a request under clause (i), a covered insti-
21 tution shall submit to the Secretary a de-
22 fault management plan as specified in
23 paragraph (7).

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

4 “(I) a public institution of higher
5 education;

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

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

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

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

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

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

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

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

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

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

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

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

22 “(i) in subparagraph (C), by sub-
23 stituting ‘adjusted cohort default rate is
24 greater than 15 percent’ for ‘cohort default
25 rate equals or exceeds 20 percent’; and

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

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

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

15 “(i) in subparagraph (A)(i)—

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

23 “(II) in subclauses (I) and (II),
24 by substituting ‘adjusted cohort de-

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

9 (2) CONFORMING AMENDMENTS.—Section
 10 435(a)(2) of the Higher Education Act of 1965 (20
 11 U.S.C. 1085(a)) is amended—

12 (A) in the paragraph heading, by adding at
 13 the end the following: “BEFORE FISCAL YEAR
 14 2021”; and

15 (B) in subparagraph (B)(iv), by striking
 16 “and any succeeding fiscal year” and inserting
 17 “through fiscal year 2020”.

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

22 “(D)(i) With respect to a cohort default rate
 23 calculated for an institution under this paragraph
 24 for fiscal year 2021 and for each succeeding fiscal

1 year, such cohort default rate shall be adjusted as
2 follows:

3 “(I) In determining the number of current
4 and former students at an institution who enter
5 repayment for such fiscal year—

6 “(aa) any such student who is in non-
7 mandatory forbearance for such fiscal year
8 for a period of greater than 18 months but
9 less than 36 months shall not be counted
10 as entering repayment for such fiscal year;

11 “(bb) such a student shall be counted
12 as entering repayment for the first fiscal
13 year for which the student ceases to be in
14 a period of forbearance and otherwise
15 meets the requirements for being in repay-
16 ment; and

17 “(cc) any such student who is in a pe-
18 riod of forbearance for three or more years
19 shall be counted as in default and included
20 in the institution’s total number of stu-
21 dents in default.

22 “(II) Such rate shall be multiplied by the
23 percentage of students enrolled at the institu-
24 tion for such fiscal year who are borrowing a
25 loan under part D of this title.

1 “(ii) The result obtained under this subpara-
2 graph for an institution shall be referred to in this
3 Act as the ‘adjusted cohort default rate’.”.

4 (c) PUBLICATION OF ADJUSTED COHORT DEFAULT
5 RATE.—Section 435(m) of the Higher Education Act of
6 1965 (20 U.S.C. 1085(m)) is further amended by adding
7 at the end the following:

8 “(5) Beginning on the date on which the final
9 adjusted cohort default rates for fiscal year 2021 are
10 made available for publication by the Secretary,
11 paragraph (4) shall be applied by substituting ‘ad-
12 justed cohort default’ for ‘cohort default’ each place
13 it appears.”.

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

15 Section 487(a)(14) of the Higher Education Act of
16 1965 is amended by adding at the end the following:

17 “(D) Beginning on the date on which the
18 final adjusted cohort default rates are published
19 by the Secretary for fiscal year 2021 under sec-
20 tion 435(m), subparagraph (C) shall be applied
21 by substituting ‘adjusted cohort default rate in
22 excess of 5 percent’ for ‘cohort default rate in
23 excess of 10 percent’ each place it appears.”.

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

2 Section 498A of the Higher Education Act of 1965
3 (20 U.S.C. 1099c–1) is amended in subsection (a)(2), by
4 striking subparagraph (A) and inserting the following:

5 “(A) institutions with an adjusted cohort
6 default rate for loans under part D of this title
7 in excess of 18 percent or which places such in-
8 stitutions in the highest 25 percent of such in-
9 stitutions;”.

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

11 Part H of title IV of the Higher Education Act of
12 1965 (20 U.S.C. 1099a et seq.) is amended by adding at
13 the end the following:

14 **“SEC. 498C. ASSISTANCE TO PROGRESS PERIOD INSTITU-
15 TIONS.**

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

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

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

26 “(d) CONDITIONS.—

1 “(1) BENCHMARKS.—

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

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

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

22 “(3) PROHIBITION.—An institution shall be in-
23 eligible to receive further support under this section
24 if, while the institution was receiving such support,
25 the total enrollment of low-income students (as such

1 term is defined in section 419N(b)(7)) at the institu-
2 tion decreased by 10 percent or more.

3 “(e) COVERED PROGRESS PERIOD INSTITUTION.—In
4 this section, the term ‘covered progress period institution’
5 means—

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

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

11 “(3) a private, nonprofit institution of higher
12 education—

13 “(A) that is determined to be in progress
14 period status; and

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

19 “(f) FUNDING.—

20 “(1) IN GENERAL.—There are appropriated
21 such funds as the Secretary, using the formula de-
22 scribed in paragraph (2), determines necessary to
23 meet the needs of all eligible institutions under this
24 subsection.

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

5 “(A) proportional amount of institutional
6 need under this section; and

7 “(B) total amount of institutional need
8 under this section.

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

○