H.R. 5565, Protect Student Borrowers Act

This is companion legislation to S. 1873, introduced by Senators Jack Reed (D-RI), Richard Durbin (D-IL), Elizabeth Warren (D-MA), and Christopher Murphy (D-CT).

Student loan debt – at more than $1 trillion -- now exceeds all other types of household debt except for mortgages. According to the Federal Reserve Bank of New York, approximately 17 percent of borrowers were past due on their student debt by more than 90 days in 2012. Unfortunately, Department of Education data show that student loan default rates are increasing. The result is that more student loan borrowers are now facing the severe consequences of default includingruined credit, ineligibility for additional student aid, and possible wage garnishment.

Institutions of higher education can implement practices that will mitigate the likelihood of a student defaulting on a loan. However under current law, institutions of higher education do not face consequences until default rates reach excessive levels (defined as the two-year cohort default rate exceeding 25 percent for three years or starting next year, the three-year cohort default rate exceeding 30 percent for three years). Some types of institutions present greater risk than others. For example, for-profit institutions, which enroll approximately 13 percent of all students nationally, accounted for 46 percent of the borrowers who defaulted in the 2010 cohort.

The Protect Student Borrowers Act will make institutions of higher education more accountable for student indebtedness by requiring institutions to assume some of the risk of student loan default. This legislation will also provide incentives and support for institutions to assist their students to effectively manage their debt and reduce defaults. The main components of the bill's institutional risk-sharing system are:

Institutional Risk-sharing Payments to the Department of Education for Defaulted Loans:

For institutions where more than 25 percent of students take out federal student loans, starting with the cohort of borrowers entering repayment in 2014, institutions will be assessed a risk-sharing payment based on their three-year cohort default rate (CDR). The rates would be set as follows –

- CDR between 15 and 20 percent – the institutional risk-sharing payment would be 5 percent of the total amount (including interest and collection fees) of loans in default for the cohort.

- CDR between 20 and 25 percent – the institutional risk-sharing payment would be 10 percent of the total amount (including interest and collection fees) of loans in default for the cohort.

- CDR between 25 and 30 percent – the institutional risk-sharing payment would be 15 percent of the total amount (including interest and collection fees) of loans in default for the cohort.

- CDR above 30 percent – the institutional risk-sharing payment would be 20 percent of the total amount (including interest and collection fees) of loans in default for the cohort.

Incentives for Institutions to Implement Student Loan Management Plans:

Institutions may reduce or eliminate their required risk-sharing payments by developing and implementing a student loan management plan that addresses the risk factors that contribute to the institution's default rate and includes individualized financial aid counseling for students

The Secretary also has the authority to waive or reduce the risk-sharing payment for institutions eligible for assistance under Title III or Title V of the Higher Education Act (including Historically Black Colleges and Universities, Hispanic-Serving Institutions, Tribally Controlled Colleges and Universities, Native Alaskan and Native Hawaiian Serving Institutions, community colleges, and other institutions that serve a high percentage of needy students and have low general and educational resources) provided that the institution is making satisfactory progress in carrying out its student loan management plan and that granting a waiver would be in the best interest of the students attending the institution.

Prohibition on Discrimination:

Institutions may not deny admission or financial aid to students based on a perception that they are at risk for defaulting on a federal student loan.

Use of risk-sharing payments:

Risk-sharing payments collected by the Secretary will be used to assist struggling borrowers and reduce funding shortfalls in the Pell grant program. Specifically,

- Not more than 50 percent of the risk-sharing payments would be dedicated to assisting defaulted or delinquent borrowers in regaining good standing and repaying their loans. The Secretary may award grants or contracts to institutions of higher education, non-profit organizations, or state agencies to implement institutionally-based or statewide strategies to assist struggling borrowers.

- No less than 50 percent would be used for funding of Pell grants to reduce any future shortfalls.

Annual report to Congress:

The Secretary of Education must report annually on the institutions that are required to make risk-sharing payments and the institutions that have received waivers or reductions in the risk-sharing payments. Additionally, the Secretary must report on the use of funds collected from risk-sharing payments.