H.R. 7831 SUMMARY

Preventing Financial Exploitation in Higher Education Act

BILL SPONSOR

Ms. Beth Van Duyne is a Republican second-term Congresswoman from Texas, representing portions of Dallas and Tarrant counties. She serves on the House Ways and Means Committee and is assigned to the taxation and Oversight Subcommittees. Ms. Van Duyne was also chosen to serve as Chair for the House Small Business Subcommittee on Oversight. Prior to being elected, she served as a Regional Administrator for the U.S. Department of Housing and Urban Development (HUD), Mayor of Irving, Irving City Council Member, and a businessperson. Ms. Van Duyne does not serve on the House Education and the Workforce Committee.

BILL BACKGROUND

H.R. 7831, the Preventing Financial Exploitation in Higher Education Act, was introduced by Ms. Van Duyne on March 26, 2024, and was referred to both the Committee on Education and the Workforce and the Committee on Ways and Means.

The bill inserts language into Part D of title IV of the Higher Education Act of 1965, Section 454A for Institutional Accountability for Defaulted, Delinquent, and Underpaid Student Loans.

UNIVERSITIES AFFECTED BY THE BILL

A “covered institution of higher education” includes private institutions that are beneficiaries of an endowment fund with a total value of $2,500,000,000 or higher.

According to College Raptor for 2024, out of a total of 55 universities with endowments over $2.5 billion, 37 are private institutions subject to these sanctions.

Reference: https://www.collegeraptor.com/college-rankings/details/Endowment/

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SEC. 454A. INSTITUTIONAL ACCOUNTABILITY FOR DEFAULTED, DELINQUENT, AND UNDERPAID STUDENT LOANS.

The stated purpose of the bill is to impose penalties on all “covered” higher education institutions for excessive delinquent rates, default rates, and cohort underpayment rate for each fiscal year beginning with FY 2024 cohort default rate (CDR). This includes student loan borrowers whose last date of attendance from March 30, 2023, through March 29, 2024. The thresholds used for these penalties are significantly less than the definition of a quality institutional cohort default rate of 15% and the penalties are excessive in relation to the thresholds.

Without additional definitions to this language, the potential penalties could accumulate to an amount higher than the funds the institution received. Additionally, it lacks definitions which make it impossible to determine its costs or viability.

This unintended consequence to low socio-economic students will be limited access to higher educational because enrolling these high-risk students will increase the institution’s risk. These students are the intended recipients of the Higher Education Act of 1965.

The following universities potentially affected by this legislation:

- The FY 2017 CDRs range from 0.0% to 3.8%. This is the last CDR that was completed prior to the covid payment pause; therefore, the FY 2017 CDRs are the most accurate to use for projections into the future.
- There are six universities with FY 2017 CDRs over 2% and these are the highest risk of these sanctions, including:
    - Amherst College with an FY 2017 CDR of 3.8%
    - Grinnell College with an FY 2016 CDR of 2.6%
    - New York University with an FY 2016 CDR of 2.3%
    - Williams College with an FY 2017 CDR of 2.3%
    - Brown University with an FY 2017 CDR of 2.1%
    - Columbia University in the City of New York with an FY 2017 CDR of 2.1%

Current economic conditions coupled with the social movement for loan forgiveness and lack of understanding of the severe consequences of default, may worsen these default rates and put most of the 37 institutions in jeopardy of facing sanctions for cohort default rates, delinquent rates, and underpayment rates.

THE BILL IMPOSES PENALTIES ON COVERED INSTITUTIONS AS FOLLOWS:

1. **A penalty based on the institution’s CDR for each fiscal year.** The official CDR is released 4 ½ years after the cohort begins, there are rights for appealing the CDRs, and the bill fails to define when these penalties would be imposed.
2. **A penalty based on the institution’s cohort delinquency rate for each fiscal year.**
    - The bill defines a “cohort delinquency rate” as the percentage of Federal student loan borrowers included in a cohort who have failed to make payments on one or more of the Federal student loans used for attendance at the institution and who are inclusively between 31 and 360 days past due.
    - The bill fails to define when it will be assessed, how many times it will be assessed, any end date for the assessments, or any adjustments for economic conditions that directly affect delinquent rates.
    - It leaves the authority to define this with the Secretary.

3. **A penalty based on the institution's underpayment rate for each fiscal year.**
    - The bill defines the "cohort underpayment rate" as the percentage of federal student loan borrowers who are making regular payments on the Federal student loans but the sum of all outstanding balances of such loans exceeds the sum of the original loan balances; and are neither delinquent nor in default.
    - The bill fails to define how many times it will be assessed, any end date for the assessments, or any adjustments for economic conditions.
    - It leaves the authority to define this with the Secretary.

The bill does not define "all loans" when certain borrowers have loans in multiple cohort years.

THE PHASE IN OF COHORT DEFAULT RATE, DELINQUENT RATE, AND UNDERPAYMENT RATE PENALTIES INCLUDE:

- **FY 2024:**
    - CDRs of 11% or higher have a penalty of 30% of the total outstanding balance of principal and interest due on all loans.
    - Cohort delinquent rates of 10% or higher have a penalty of 28% of the total outstanding balance of principal and interest due on all loans.
    - Cohort underpayment rates of 9% or higher have a penalty of 26% of the total outstanding balance of principal and interest due on all loans.
- **FY 2025:**
    - CDRs of 10% or higher have a penalty of 28% of the total outstanding balance of principal and interest due on all loans.
    - Cohort delinquent rates of 9% or higher have a penalty of 26% of the total outstanding balance of principal and interest due on all loans.
    - Cohort underpayment rates of 8% or higher have a penalty of 24% of the total outstanding balance of principal and interest due on all loans.
- **FY 2026:**
    - CDRs of 9% or higher have a penalty of 26% of the total outstanding balance of principal and interest due on all loans.
    - Cohort delinquent rates of 8% or higher have a penalty of 24% of the total outstanding balance of principal and interest due on all loans.
    - Cohort underpayment rates of 7% or higher have a penalty of 22% of the total outstanding balance of principal and interest due on all loans.
- **FY 2027:**
    - CDRs of 8% or higher have a penalty of 24% of the total outstanding balance of principal and interest due on all loans.
    - Cohort delinquent rates of 7% or higher have a penalty of 22% of the total outstanding balance of principal and interest due on all loans.
    - Cohort underpayment rates of 6% or higher have a penalty of 20% of the total outstanding balance of principal and interest due on all loans.
- **FY 2028:**
    - CDRs of 7% or higher have a penalty of 22% of the total outstanding balance of principal and interest due on all loans.
    - Cohort delinquent rates of 6% or higher have a penalty of 20% of the total outstanding balance of principal and interest due on all loans.
    - Cohort underpayment rates of 5% or higher have a penalty of 18% of the total outstanding balance of principal and interest due on all loans.

- **FY 2029 and Subsequent Fiscal Years:**
    - CDRs of 6% or higher have a penalty of 20% of the total outstanding balance of principal and interest due on all loans.
    - Cohort delinquent rates of 5% or higher have a penalty of 18% of the total outstanding balance of principal and interest due on all loans.
    - Cohort underpayment rates of 4% or higher have a penalty of 16% of the total outstanding balance of principal and interest due on all loans.

SEC. 4. INCREASED TAX ON NET INVESTMENT INCOME OF CERTAIN EDUCATIONAL INSTITUTIONS WITH LARGE ENDOWMENTS THAT INCREASE TUITION.

The bill also imposes increased taxes from 1.4% to 25% on net investment income of covered educational institutions that increase tuition above the inflation adjusted base amount. While many lawmakers and taxpayers agree with limiting tuition and fee increases, the large institutions will fight this strategically and forcibly.

The institutions with the 10 largest endowments in 2024, subject to this sanction include:

1. Harvard University with an endowment valued over $53 billion
2. Yale University with an endowment valued over $42 billion
3. Stanford University with an endowment valued nearly $38 billion
4. Princton University with an endowment valued over $37 billion
5. Massachusetts Institute of Technology with an endowment valued over $27 billion
6. University of Pennsylvania with an endowment valued nearly $21 billion
7. University of Notre Dame with an endowment valued over $18 billion
8. Columbia University in the City of New York with an endowment valued over $14 billion
9. Washington University in St Louis with an endowment valued nearly $14 billion
10. Duke University with an endowment valued nearly $13 billion

This section uses the term “applicable educational institutions” that is defined in Section 4968(b)(1) as an eligible educational institution (as defined in section 25A(f)(2)) that, during the preceding taxable year, had at least 500 tuition-paying students, more than 50% of whom were located in the United States, that is not a state college or university as described in the first sentence of section 511(a)(2)(B), and had assets (other than those assets used directly in carrying out the institution's exempt purpose) the aggregate fair market value of which was at least $500,000 per student of the institution.

H.R. 7831 INCREASES THE INSTITUTION’S EXCISE TAX OF 1.4% TO 25% ON THE NET INVESTMENT INCOME FOR INSTITUTIONS BEGINNING AFTER DECEMBER 31, 2024, WHEN:

1. The average tuition charged to full-time students for semesters during such taxable year exceeds the inflation adjusted base amount for such taxable year, <u>*and*</u>
2. The aggregate fair market value (determined as of the end of the preceding taxable year) of assets of such institution equals or exceeds $2,500,000,000, other than those assets which are used directly in conducting the institution’s exempt purpose.

THIS SECTION APPLIES "DISQUALIFIED LARGE APPLICABLE EDUCATION INSTITUTIONS" UNDER THE FOLLOWING DEFINITIONS:

- The institution is an applicable education for the taxable year.
- The average tuition charged to full-time students for semesters during such taxable year exceeds the inflation adjusted base amount for that year which includes:
    - The base amount (the average tuition charged to specified students for semesters during calendar year 2024) of such institution, plus
    - The base amount multiplied by the cost-of-living adjustment for the calendar year in which the taxable year begins starting with calendar year 2023.
    - For new institutions with a first full year in existence established after 2024, the base year will be the first full calendar year in existence and the inflation adjusted base amount will be based on the year prior to the first full calendar year in existence.
    - The authority to define this beyond these definitions lies with the Secretary.

SUMMARY

The highest risk for universities defined in this legislation lies in the Section 454A for default, delinquent, and underpaid student loans due to inflation making payments unaffordable, the social movement for having loans forgiven, and the terms defined in the various Income-Driven Repayment (IDR) Plans that may be perceived as underpayment on loans.

There are challenges with federal loan servicers that are leading to increased delinquency and defaults including, but not limited to, rejected payments, the need for reestablishing automated payment, lack of personnel to properly process payments, deferments, forbearances, and other options that borrowers are entitled to apply for.

Additionally, the "on-ramp" program gives institutions and borrowers a false belief that they will not be subject to defaults after the program ends on September 30, 2024. The reality is that a remarkable number of borrowers are delinquent and headed for default while they wait for their loans to be forgiven. Most loan forgiveness programs are aimed at low-income borrowers or apply to loans that have been in repayment for 10-25 years. Little if any loan forgiveness will apply to the borrowers and institutions affected by this legislation.

The risk of sanctions for tuition increases is manageable if institutions are aware of these sanctions. They can take preventative steps to mitigate this risk.