113TH CONGRESS
2D SESSION

S. 2954

To improve the Higher Education Act of 1965, and for other purposes.

IN THE SENATE OF THE UNITED STATES
NOVEMBER 20, 2014
Mr. HARKIN introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL
To improve the Higher Education Act of 1965, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Higher Education Af-
fordability Act”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

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See. 1. Short title.
See. 2. Table of contents.
See. 3. References.
See. 4. General effective date.

TITLE I—GENERAL PROVISIONS

Sec. 101. Graduate medical schools; postsecondary career and technical edu-
cation institutions.
“(7) FOLLOW-UP REVIEWS AFTER VIOLATIONS.—The Secretary shall conduct follow-up reviews of each institution of higher education that has been found in violation of a provision of this title not later than 1 year after the date of such finding. Such follow-up reviews may only assess whether the institution of higher education has corrected violations found in a previous program review or final program review determination.”.

PART I—STATE-FEDERAL COLLEGE

AFFORDABILITY PARTNERSHIP

SEC. 499. STATE-FEDERAL COLLEGE AFFORDABILITY PARTNERSHIP.

Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) is amended by adding at the end the following:

“PART J—STATE-FEDERAL COLLEGE

AFFORDABILITY PARTNERSHIP

SEC. 499–1. PURPOSE.

“The purpose of this part is to establish a State-Federal partnership that incentivizes State investment in public higher education.

SEC. 499–2. DEFINITIONS.

“In this part:
“(1) ELIGIBLE STATE.—The term ‘eligible State’ means a State that provides net State operating support per FTE student in an amount equal to not less than 50 percent of the amount that reflects the maximum Federal Pell Grant award amount.

“(2) FULL-TIME EQUIVALENT STUDENT NUMBER.—The term ‘full-time equivalent student number’ means a number that reflects the sum of the number of students enrolled full time at a public institution of higher education in the State, plus the full-time equivalent of the number of students enrolled part time (determined on the basis of the quotient of the sum of the credit hours of all part-time students divided by 12) at such institutions. The Secretary may establish a methodology for calculating the full-time equivalent student number and may offer guidance to States in determining the State’s full-time equivalent student number for purposes of this part.

“(3) NET STATE OPERATING SUPPORT.—The term ‘net State operating support’ means an amount that is equal to the amount of State funds and local government appropriations used to support public higher education annual operating expenses in the
State, calculated in accordance with subparagraphs
(A) and (B).

"(A) CALCULATION.—A State’s net State
operating support shall be an amount that is
equal to the difference resulting from the gross
amount of State funds annually appropriated
for public higher education operating expenses
in the State; minus—

"(i) such appropriations that are re-
turned to the State;

"(ii) State-appropriated funds derived
from Federal sources, including funds pro-
vided under this part;

"(iii) local government funds not ap-
propriated for operating support for public
higher education;

"(iv) amounts that are portions of
multi-year appropriations to be distributed
over multiple years;

"(v) tuition charges remitted to the
State to offset State appropriations;

"(vi) State funding for students in
non-credit continuing or adult education
courses and non-credit extension courses;
“(vii) sums appropriated to private nonprofit institutions of higher education, or to proprietary institutions of higher education, for capital outlay or operating expenses; and

“(viii) any other funds excluded under subparagraph (B).

“(B) EXCLUSIONS.—Net State operating support does not include funds for—

“(i) student aid programs that provide grants to students attending in-State private nonprofit institutions of higher education, in-State proprietary institutions of higher education, independent institutions, in-State public institutions, and out-of-State institutions;

“(ii) capital outlay;

“(iii) deferred maintenance;

“(iv) research and development; or

“(v) any other funds that the Secretary may exclude.

“(4) NET STATE OPERATING SUPPORT PER FTE STUDENT.—The term ‘Net State Operating Support per FTE student’ means, for a fiscal year—
“(A) the net State operating support for
the previous fiscal year; divided by
“(B) the full-time equivalent student num-
ber for the previous fiscal year.
“(5) PUBLIC INSTITUTION.—The term ‘public
institution’ means an institution of higher education
(as defined in section 101) whose liabilities are
backed by the full faith and credit of the State or
its equivalent, as determined in accordance with sec-
tion 668.15 of title 34, Code of Federal Regulations,
or any successor regulation.
“(6) PRIVATE NONPROFIT INSTITUTION OF
HIGHER EDUCATION.—The term ‘private nonprofit
institution of higher education’ means an institution
of higher education, as defined in section 102, that
is a private nonprofit institution.
“(7) PROPRIETARY INSTITUTION OF HIGHER
EDUCATION.—The term ‘proprietary institution of
higher education’ has the meaning given the term in
section 102(b).

“SEC. 499-3. AUTHORIZATION; USE OF FUNDS.
“(a) AUTHORIZATION.—The Secretary shall award
annual block grants to eligible States to encourage States
to provide additional funding for public higher education.
“(b) Use of Funds by States.—An eligible State receiving a block grant under this part shall, allocate 100 percent of block grant funding to public institutions for public higher education expenditures in accordance with subsection (c).

“(c) Use of Funds by Public Institutions.—A public institution that receives funds under this title shall—

“(1) use a portion of such funds to directly reduce tuition costs or mitigate the need to raise tuition and fees for students residing in the State;

“(2) use a portion of such funds to support the enrollment of low-income students (as measured by eligibility for Federal Pell Grants) in the institution; and

“(3) create a publicly available report that documents an institution’s efforts to satisfy the requirements described in paragraphs (1) and (2).

“(d) Prohibitions.—

“(1) No Use for Endowments.—A public institution may not use funds received under this title to increase its endowment.

“(2) No Use for Athletic or Commercial Venues.—No funds awarded under this title may be used for the modernization, renovation, or repair of
stadiums or other facilities of a public institution primarily used for athletic contests or events for which admission is charged to the general public.

"(e) STATE LIMITATIONS ON INSTITUTIONS.—Nothing in this section shall be construed to prohibit a State from establishing additional requirements for public institutions in the State for the purpose of increasing the affordability of higher education.

"SEC. 499–4. GRANT FORMULA.

"(a) GRANT FORMULA.—The Secretary shall award a block grant to an eligible State for a fiscal year in an amount equal to the product of—

"(1) the marginal Federal match amount, as determined under subsection (b) for the fiscal year and adjusted in accordance with subsection (c); multiplied by

"(2) the full-time equivalent student number for the previous fiscal year.

"(b) FEDERAL MATCH AMOUNT.—The Federal match amount will be determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Net State Operating Support Per FTE student</th>
<th>Federal match amount per FTE student</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below $2,865</td>
<td>No match</td>
</tr>
<tr>
<td>$2,865 to $4,388</td>
<td>20% of the excess over $2,865</td>
</tr>
<tr>
<td>$4,389 to $5,443</td>
<td>$304.6, plus 30% of the excess over $4,389</td>
</tr>
<tr>
<td>$5,444 to $6,303</td>
<td>$620.8, plus 40% of the excess over $5,444</td>
</tr>
</tbody>
</table>
"Net State Operating Support Per FTE student  Federal match amount per FTE student
$6,304 to $7,449 ..........................  $964.4, plus 50% of the excess over $6,304
$7,450 to $8,595 ..........................  $1,536.9, plus 10% of the excess over $7,450
Above $8,595 ..............................  No match above $1,651.4.

"(c) ADJUSTMENTS BASED ON THE MAXIMUM FEDERAL PELL GRANT AMOUNT.—For each award year subsequent to 2014, the dollar amounts in the table under subsection (b) shall only be increased (rounded to the nearest dollar) by the percentage by which—

"(1) the maximum Pell Grant award amount for such award year, exceeds

"(2) $5,730.

"(d) RATAABLE REDUCTION.—If the sums made available under this part for any fiscal year are insufficient to pay the full amounts that all States are eligible to receive in accordance with this section for such year, the Secretary shall establish procedures for ratably reducing each State’s award amount.

"SEC. 499-5. ACCOUNTABILITY AND ENFORCEMENT.

"(a) ANNUAL REPORT.—

"(1) IN GENERAL.—Beginning for the first fiscal year after a State receives a block grant under this part, the State shall prepare and submit an annual report to the Secretary, which shall include detailed information about the State’s use of grant funds to increase the affordability of public higher
education and increase the enrollment of low-income
students (as measured by eligibility for a Federal
Pell Grant).

"(2) CONTENTS.—A report described in para-
graph (1) shall—

"(A) describe all actions taken to
incentivize public institutions to reduce tuition
costs, or mitigate the need to raise tuition and
fees for in-State students;

"(B) explain the extent to which public in-
stitutions supported the enrollment of low-in-
come students who are eligible for Federal Pell
Grants or other need-based financial assistance;

"(C) disclose how the State distributed the
allotment provided under this part to all public
institutions, and the rationale for such distribu-
tion;

"(D) include the aggregated graduation
rates for low-income students (based on eligi-
bility for Federal Pell Grants), part-time stu-
dents, and transfer students, disaggregated by
type of degree or credential; and

"(E) be publicly available in a manner that
is easily accessible to parents, students, and
consumer advocates.
"(b) MAINTAINING NET STATE OPERATING SUPPORT PER FTE STUDENT.—

"(1) IN GENERAL.—Each State receiving an allotment under this part for a fiscal year shall—

"(A) ensure that the amount expended by the State, from funds derived from non-Federal sources, for net State operating support per FTE student for the preceding fiscal year was not less than the amount expended by the State for net State operating support per FTE student for the second preceding fiscal year; and

"(B) demonstrate the State's compliance with subparagraph (A) by providing the Secretary with a written assurance and detailed documentation.

"(2) PENALTY.—If a State does not comply with paragraph (1), the State's grant award under this part shall be reduced by an amount equal to the product of—

"(A) the difference between—

"(i) the net State operating support per FTE student for the second preceding fiscal year; minus
“(ii) the net State operating support per FTE student for the preceding fiscal year; multiplied by “(B) the full-time equivalent student number for the previous fiscal year.

“(c) MAINTENANCE OF EFFORT FOR STATE-BASED FINANCIAL AID.—Each State receiving an allotment under this part for a fiscal year shall, as a condition of receiving the allotment, maintain the level of State student financial aid support provided for costs associated with postsecondary education at not less than the level of such support provided for the academic year immediately preceding the year for which the State is receiving the allotment.

“(d) AUTHORITY TO COMPROMISE.—Notwithstanding subsections (b) and (c), the Secretary may waive any maintenance of support and effort requirement described in such subsections for a State if there is a clear case of a significant economic downturn in the State. Such determination shall only be made by the Secretary following a written appeal by the State that documents recent and significant decreases in economic activity in the State.
"SEC. 499-6. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2015 and each of the five succeeding fiscal years.”.

TITLE V—DEVELOPING INSTITUTIONS

SEC. 501. RULE OF CONSTRUCTION.

Section 501 (20 U.S.C. 1101) is amended—

(1) in the section heading, by striking "AND PROGRAM AUTHORITY" and inserting "PROGRAM AUTHORITY; RULE OF CONSTRUCTION";

and

(2) by adding at the end the following:

"(d) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed to restrict an institution from using funds provided under a section of this title for activities and uses that were authorized under such section on the day before the date of enactment of the Higher Education Affordability Act.”.

SEC. 502. AUTHORIZED ACTIVITIES UNDER PART A OF TITLE V.

Section 503 (20 U.S.C. 1101b) is amended—

(1) by striking subsection (b) and inserting the following: