

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.

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 “Higher Education Af-
5 fordability Act”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

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

TITLE I—GENERAL PROVISIONS

Sec. 101. Graduate medical schools; postsecondary career and technical edu-
cation institutions.

1 “(7) FOLLOW-UP REVIEWS AFTER VIOLA-
 2 TIONS.—The Secretary shall conduct follow-up re-
 3 views of each institution of higher education that
 4 has been found in violation of a provision of this
 5 title not later than 1 year after the date of such
 6 finding. Such follow-up reviews may only assess
 7 whether the institution of higher education has cor-
 8 rected violations found in a previous program review
 9 or final program review determination.”.

10 **PART I—STATE-FEDERAL COLLEGE**

11 **AFFORDABILITY PARTNERSHIP**

12 **SEC. 499. STATE-FEDERAL COLLEGE AFFORDABILITY PART-**
 13 **nership.**

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

17 **“PART J—STATE-FEDERAL COLLEGE**

18 **AFFORDABILITY PARTNERSHIP**

19 **“SEC. 499-1. PURPOSE.**

20 “The purpose of this part is to establish a State-Fed-
 21 eral partnership that incentivizes State investment in pub-
 22 lic higher education.

23 **“SEC. 499-2. DEFINITIONS.**

24 “In this part:

1 “(1) ELIGIBLE STATE.—The term ‘eligible
2 State’ means a State that provides net State oper-
3 ating support per FTE student in an amount equal
4 to not less than 50 percent of the amount that re-
5 flects the maximum Federal Pell Grant award
6 amount.

7 “(2) FULL-TIME EQUIVALENT STUDENT NUM-
8 BER.—The term ‘full-time equivalent student num-
9 ber’ means a number that reflects the sum of the
10 number of students enrolled full time at a public in-
11 stitution of higher education in the State, plus the
12 full-time equivalent of the number of students en-
13 rolled part time (determined on the basis of the
14 quotient of the sum of the credit hours of all part-
15 time students divided by 12) at such institutions.
16 The Secretary may establish a methodology for cal-
17 culating the full-time equivalent student number and
18 may offer guidance to States in determining the
19 State’s full-time equivalent student number for pur-
20 poses of this part.

21 “(3) NET STATE OPERATING SUPPORT.—The
22 term ‘net State operating support’ means an amount
23 that is equal to the amount of State funds and local
24 government appropriations used to support public
25 higher education annual operating expenses in the

1 State, calculated in accordance with subparagraphs
2 (A) and (B).

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

9 “(i) such appropriations that are re-
10 turned to the State;

11 “(ii) State-appropriated funds derived
12 from Federal sources, including funds pro-
13 vided under this part;

14 “(iii) local government funds not ap-
15 propriated for operating support for public
16 higher education;

17 “(iv) amounts that are portions of
18 multi-year appropriations to be distributed
19 over multiple years;

20 “(v) tuition charges remitted to the
21 State to offset State appropriations;

22 “(vi) State funding for students in
23 non-credit continuing or adult education
24 courses and non-credit extension courses;

1 “(vii) sums appropriated to private
2 nonprofit institutions of higher education,
3 or to proprietary institutions of higher
4 education, for capital outlay or operating
5 expenses; and

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

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

10 “(i) student aid programs that provide
11 grants to students attending in-State pri-
12 vate nonprofit institutions of higher edu-
13 cation, in-State proprietary institutions of
14 higher education, independent institutions,
15 in-State public institutions, and out-of-
16 State institutions;

17 “(ii) capital outlay;

18 “(iii) deferred maintenance;

19 “(iv) research and development; or

20 “(v) any other funds that the Sec-
21 retary may exclude.

22 “(4) NET STATE OPERATING SUPPORT PER FTE
23 STUDENT.—The term ‘Net State Operating Support
24 per FTE student’ means, for a fiscal year—

1 “(A) the net State operating support for
2 the previous fiscal year; divided by

3 “(B) the full-time equivalent student num-
4 ber for the previous fiscal year.

5 “(5) PUBLIC INSTITUTION.—The term ‘public
6 institution’ means an institution of higher education
7 (as defined in section 101) whose liabilities are
8 backed by the full faith and credit of the State or
9 its equivalent, as determined in accordance with sec-
10 tion 668.15 of title 34, Code of Federal Regulations,
11 or any successor regulation.

12 “(6) PRIVATE NONPROFIT INSTITUTION OF
13 HIGHER EDUCATION.—The term ‘private nonprofit
14 institution of higher education’ means an institution
15 of higher education, as defined in section 102, that
16 is a private nonprofit institution.

17 “(7) PROPRIETARY INSTITUTION OF HIGHER
18 EDUCATION.—The term ‘proprietary institution of
19 higher education’ has the meaning given the term in
20 section 102(b).

21 **“SEC. 499-3. AUTHORIZATION; USE OF FUNDS.**

22 “(a) AUTHORIZATION.—The Secretary shall award
23 annual block grants to eligible States to encourage States
24 to provide additional funding for public higher education.

1 “(b) USE OF FUNDS BY STATES.—An eligible State
2 receiving a block grant under this part shall allocate 100
3 percent of block grant funding to public institutions for
4 public higher education expenditures in accordance with
5 subsection (c).

6 “(c) USE OF FUNDS BY PUBLIC INSTITUTIONS.—A
7 public institution that receives funds under this title
8 shall—

9 “(1) use a portion of such funds to directly re-
10 duce tuition costs or mitigate the need to raise tui-
11 tion and fees for students residing in the State;

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

16 “(3) create a publicly available report that doc-
17 uments an institution’s efforts to satisfy the require-
18 ments described in paragraphs (1) and (2).

19 “(d) PROHIBITIONS.—

20 “(1) NO USE FOR ENDOWMENTS.—A public in-
21 stitution may not use funds received under this title
22 to increase its endowment.

23 “(2) NO USE FOR ATHLETIC OR COMMERCIAL
24 VENUES.—No funds awarded under this title may be
25 used for the modernization, renovation, or repair of

1 stadiums or other facilities of a public institution
2 primarily used for athletic contests or events for
3 which admission is charged to the general public.

4 “(e) STATE LIMITATIONS ON INSTITUTIONS.—Noth-
5 ing in this section shall be construed to prohibit a State
6 from establishing additional requirements for public insti-
7 tutions in the State for the purpose of increasing the af-
8 fordability of higher education.

9 **“SEC. 499-4. GRANT FORMULA.**

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

13 “(1) the marginal Federal match amount, as
14 determined under subsection (b) for the fiscal year
15 and adjusted in accordance with subsection (c); mul-
16 tiplied by

17 “(2) the full-time equivalent student number for
18 the previous fiscal year.

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

“Net State Operating Support Per FTE student	Federal match amount per FTE student
Below \$2,865	No match
\$2,865 to \$4,388	20% of the excess over \$2,865
\$4,389 to \$5,443	\$304.6, plus 30% of the excess over \$4,389
\$5,444 to \$6,303	\$620.8, plus 40% of the excess over \$5,444

“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.

1 “(c) ADJUSTMENTS BASED ON THE MAXIMUM FED-
2 ERAL PELL GRANT AMOUNT.—For each award year sub-
3 sequent to 2014, the dollar amounts in the table under
4 subsection (b) shall only be increased (rounded to the
5 nearest dollar) by the percentage by which—

6 “(1) the maximum Pell Grant award amount
7 for such award year, exceeds

8 “(2) \$5,730.

9 “(d) RATABLE REDUCTION.—If the sums made avail-
10 able under this part for any fiscal year are insufficient
11 to pay the full amounts that all States are eligible to re-
12 ceive in accordance with this section for such year, the
13 Secretary shall establish procedures for ratably reducing
14 each State’s award amount.

15 **“SEC. 499-5. ACCOUNTABILITY AND ENFORCEMENT.**

16 “(a) ANNUAL REPORT.—

17 “(1) IN GENERAL.—Beginning for the first fis-
18 cal year after a State receives a block grant under
19 this part, the State shall prepare and submit an an-
20 nual report to the Secretary, which shall include de-
21 tailed information about the State’s use of grant
22 funds to increase the affordability of public higher

1 education and increase the enrollment of low-income
2 students (as measured by eligibility for a Federal
3 Pell Grant).

4 “(2) CONTENTS.—A report described in para-
5 graph (1) shall—

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

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

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

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

23 “(E) be publicly available in a manner that
24 is easily accessible to parents, students, and
25 consumer advocates.

1 “(b) MAINTAINING NET STATE OPERATING SUP-
2 PORT PER FTE STUDENT.—

3 “(1) IN GENERAL.—Each State receiving an al-
4 lotment under this part for a fiscal year shall—

5 “(A) ensure that the amount expended by
6 the State, from funds derived from non-Federal
7 sources, for net State operating support per
8 FTE student for the preceding fiscal year was
9 not less than the amount expended by the State
10 for net State operating support per FTE stu-
11 dent for the second preceding fiscal year; and

12 “(B) demonstrate the State’s compliance
13 with subparagraph (A) by providing the Sec-
14 retary with a written assurance and detailed
15 documentation.

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

20 “(A) the difference between—

21 “(i) the net State operating support
22 per FTE student for the second preceding
23 fiscal year; minus

1 “(ii) the net State operating support
2 per FTE student for the preceding fiscal
3 year; multiplied by

4 “(B) the full-time equivalent student num-
5 ber for the previous fiscal year.

6 “(c) MAINTENANCE OF EFFORT FOR STATE-BASED
7 FINANCIAL AID.—Each State receiving an allotment
8 under this part for a fiscal year shall, as a condition of
9 receiving the allotment, maintain the level of State student
10 financial aid support provided for costs associated with
11 postsecondary education at not less than the level of such
12 support provided for the academic year immediately pre-
13 ceding the year for which the State is receiving the allot-
14 ment.

15 “(d) AUTHORITY TO COMPROMISE.—Notwith-
16 standing subsections (b) and (c), the Secretary may waive
17 any maintenance of support and effort requirement de-
18 scribed in such subsections for a State if there is a clear
19 case of a significant economic downturn in the State. Such
20 determination shall only be made by the Secretary fol-
21 lowing a written appeal by the State that documents re-
22 cent and significant decreases in economic activity in the
23 State.

1 **“SEC. 499-6. AUTHORIZATION OF APPROPRIATIONS.**

2 “There are authorized to be appropriated to carry out
3 this part such sums as may be necessary for fiscal year
4 2015 and each of the five succeeding fiscal years.”.

5 **TITLE V—DEVELOPING**
6 **INSTITUTIONS**

7 **SEC. 501. RULE OF CONSTRUCTION.**

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

9 (1) in the section heading, by striking “**AND**
10 **PROGRAM AUTHORITY**” and inserting “**PRO-**
11 **GRAM AUTHORITY; RULE OF CONSTRUCTION**”;
12 and

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

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

20 **SEC. 502. AUTHORIZED ACTIVITIES UNDER PART A OF**
21 **TITLE V.**

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

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