113TH CONGRESS
2D Session

S. 1969

To provide for higher education reform.

IN THE SENATE OF THE UNITED STATES

JANUARY 29, 2014

Mr. Murphy (for himself, Mr. Schatz, Mrs. Murray, and Mr. Sanders) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for higher education reform.

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 “College Affordability
5 and Innovation Act of 2014”.

6 SEC. 2. DEFINITIONS.

7 In this Act:

8 (1) AUTHORIZING COMMITTEES.—The term
9 “authorizing committees” means the Committee on
10 Health, Education, Labor, and Pensions of the Sen-
(2) SECRETARY.—The term “Secretary” means the Secretary of Education.

SEC. 3. PILOT PROGRAM TO PROMOTE INNOVATION IN HIGHER EDUCATION.

(a) PURPOSE; DEFINITION.—

(1) PURPOSE.—The purpose of this section is to authorize an evidence-based grant program to promote greater experimentation among institutions of higher education to increase the level of student attainment of postsecondary and graduate certificates and degrees through innovative programs designed to decrease the cost and time required to complete postsecondary and graduate programs while improving the quality and effectiveness of postsecondary education programs, providing accelerated degree or certificate programs, and increasing on-time graduation rates.

(2) INSTITUTION OF HIGHER EDUCATION.—In this section, the term “institution of higher education” has the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).
(b) INCENTIVE GRANTS FOR INNOVATIVE PROGRAMS THAT IMPROVE QUALITY AND AFFORDABILITY.—

(1) IN GENERAL.—

(A) GRANTS.—The Secretary shall, for a 5-year award term, award grants to not more than 15 institutions of higher education, through a competitive process described in this section, to enable the institutions to carry out programs designed to graduate students with certificates or degrees at significantly lower costs for students and within shorter time periods than traditional programs while improving the quality and effectiveness of the programs.

(B) GOOD STANDING REQUIREMENT.—

Only those institutions of higher education that are in good standing with the administration of their student assistance programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) shall be eligible to receive grants under subparagraph (A).

(2) DISTRIBUTION OF GRANT FUNDS.—Grant payments shall be awarded with an initial distribution of 20 percent of the total grant amount, followed by a distribution of 10 percent of the total grant amount prior to the second, third, and fourth
years of the program, and the remaining 50 percent of the total grant amount after the program receives its final satisfactory annual evaluation by the Secretary in accordance with subsection (f)(1).

(3) Description of Innovative Programs.—The programs described under paragraph (1) shall include those that—

(A) utilize online instruction, including distance education (as defined in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003)), or online interaction components, or online instruction integrated with classroom or in-person instruction;

(B) utilize direct assessment programs, as described in section 481(b)(4) of the Higher Education Act of 1965 (20 U.S.C. 1088(b)(4)), either within a comprehensive direct assessment program or integrated within another type of academic program;

(C) utilize integration of experiential learning and design of customized programs of study, to promote completion or alignment with medium- and long-term employment needs;

(D) allow students to be dually or concurrently enrolled in the postsecondary program...
and a secondary school, or a postsecondary pro-
gram and a graduate program; or

(E) utilize any other innovative, evidence-

based method of postsecondary education that

provides cost-effective, high-quality methods for

instruction, student learning, and use of avail-
able technology-based resources, including hy-

brid models incorporating elements of the pro-

gram types set forth in subparagraphs (A), (B),

(C), and (D), and adaptive learning tech-
nologies.

(c) APPLICATIONS.—

(1) IN GENERAL.—An institution of higher edu-
cation that desires to receive a grant under this sec-
tion shall submit an application to the Secretary at
such time and in such manner as the Secretary may
require.

(2) CONTENTS.—An application submitted
under paragraph (1) shall include—

(A) a description of the institution’s qual-

ity assurances for the programs to be offered;

(B) a description of the statutory and reg-

ulatory requirements for which a waiver is

sought under subsection (e) and the reasons for

which the waiver is sought;
(C) a description of the programs to be offered;

(D) a description of the students eligible for the programs offered, including any eligibility limitations;

(E) an assurance that the institution will fully cooperate with the ongoing evaluations of the programs provided for in this section;

(F) a description of how the proposed program will improve the quality of its postsecondary certificates or degrees, reduce tuition and other costs to students, and reduce enrollment time;

(G) a description of the data (or any other evidence) that indicate that the programs to be offered will likely lead to the outcomes described in subparagraph (F);

(H) a complete listing of the institution’s performance goals and measures regarding assessments of the quality of its postsecondary certificates or degrees, amount of tuition and costs charged to students, and the amount of enrollment time needed by students to complete the postsecondary certificates or degrees; and
(d) AWARDING OF GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants under this section to institutions of higher education for new or existing programs.

(2) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to an institution of higher education that the Secretary determines—

(A) is financially responsible, as described in section 498(c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1099c(c)(1));

(B) has a proven record of graduating students from the other programs of the institution;

(C) has a proven record of graduates from the other programs of the institution securing full-time employment;

(D) simultaneously addresses income-related inequalities in remedial education, college access, persistence rates, and graduation rates;

(E) has support services in place, such as counseling, coaching, mentoring, and outreach, that are designed to assist all students in ob-
taining information and making decisions re-
garding financial aid, and degree or certificate
likelihood of persistence and completion;

(F) will serve low-income students, adult
students aged 25 years and older, and part-time
students;

(G) will support programs that are
replicable at a range of institutions of higher
education if they are demonstrated to be suc-
cessful; and

(H) has presented the strongest evidence
in support of their likely outcomes, as required
under subsection (c)(2)(G).

(3) DIVERSE POPULATIONS.—In awarding
grants under this section, the Secretary shall ensure
the participation of diverse student populations, in-
cluding rural and urban populations, and of a di-
verse range of institutions.

(4) PUBLICATION OF GRANTEES.—The Sec-
retary shall make available to the public and to the
authorizing committees a list of the institutions of
higher education awarded a grant under this section,
including a listing of the specific statutory and regu-
latory requirements being waived for each institution
and a description of the programs and courses to be offered.

(c) Waivers.—

(1) In general.—Except as provided under paragraph (2), with respect to institutions of higher education awarded grants under this section, the Secretary may waive—

(A) subsection (a) or (b) of section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088(a) and (b)), as such subsections relate to requirements for a minimum number of weeks of instruction;

(B) subparagraph (A) or (B) of section 102(a)(3) of such Act (20 U.S.C. 1002(a)(3)(A) and (B));

(C) one or more of the regulations promulgated to carry out part F or G of title IV of such Act (20 U.S.C. 1087kk et seq. and 1088 et seq.), which inhibit the operation of innovative education programs; and

(D) any other requirement under title IV of such Act (20 U.S.C. 1070 et seq.) that will bias the results of the program, including a requirement related to the award process and disbursement of student financial aid (such as in-
novative delivery systems for modular or compressed courses or other innovative systems), or other management procedures or processes as determined in the negotiated rulemaking process under section 492 of such Act (20 U.S.C. 1098a), or regulations prescribed under such title.

(2) Prohibition of waiver.—The Secretary shall not waive, pursuant to paragraph (1), any provision under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) or a regulation promulgated to carry out such Act with respect to award rules (other than an award rule related to an experiment in modular or compressed schedules), grant and loan maximum award amounts, and need analysis requirements, unless the waiver of such provision is authorized by another provision under such Act.

(f) Evaluation and reports.—

(1) Evaluation and accountability process.—The Secretary shall establish an evaluation and accountability process for the programs authorized under this section and shall administer such process on an annual basis. Such evaluations shall include—
(A) the extent to which the institution of higher education has met the goals set forth in its application to the Secretary, including the quality of education provided by participating programs;

(B) the number and types of students participating in the programs offered, including the progress of participating students toward recognized certificates or degrees;

(C) issues related to student financial assistance;

(D) the extent to which any statutory or regulatory requirements present difficulties for students or institutions in the participating programs; and

(E) an analysis of the program’s progress with each of its objectives, including the number and rate of completion of participating students toward recognized certificates or degrees, prices charged to students, time required to complete the participating programs, on-time completion rates of participating students, and indicators of program quality.

(2) REVIEW.—The Secretary shall review policies and identify those policies that present impedi-
ments to the development and use of innovative pro-
grams and other nontraditional methods of expand-
ing success and access to education.

(3) MEASURES.—The Secretary shall establish
measures to assess the quality of the education pro-
vided by participating programs under this section,
including a minimum standard of quality that par-
ticipating programs shall meet.

(4) REPORTS.—The Secretary shall provide re-
ports to the authorizing committees on an annual
basis regarding—

(A) the programs authorized under this
section; and

(B) the number and types of students re-
ceiving assistance under this section for instruc-
tion leading to a recognized degree or certifi-
cate, including the progress of such students to-
ward recognized certificates and the degree to
which participation in such programs leading to
such certificates increased.

(5) DUTIES OF THE SECRETARY.—In con-
ducting the program authorized under this section,
the Secretary shall, on a continuing basis—

(A) ensure compliance of institutions of
higher education with the requirements of this
section (other than the sections and regulations that are waived under subsection (e));

(B) provide technical assistance;

(C) monitor fluctuations in the student population enrolled in the participating program; and

(D) assess whether each participating program is improving the quality of postsecondary credentials and meeting the quality control measures set by the Secretary.

(g) CONSUMER PROTECTION FOR STUDENTS.—

(1) PROGRAM TERMINATION.—If a program funded under this section terminates on its accord at any point during which the program is receiving funds under this section, or if the Secretary determines that the program does not meet the minimum standard of quality as required under subsection (f)(3)—

(A) the institution of higher education administering the program shall provide immediate notice to students enrolled in the program and shall prepare a teach-out plan, as described in section 487(f) of the Higher Education Act of 1965 (20 U.S.C. 1094(f)); and

(B) the Secretary shall—
(i) ensure that—

(I) no additional program funds are distributed to the program; and

(II) the institution of higher education administering the program is in compliance with the notice and teach-out requirements under subparagraph (A); and

(ii) assess a fine to an institution of higher education administering the program that is not in compliance with the notice and teach-out requirements under subparagraph (A).

(2) NOTICE AND DISCLOSURE FOR STUDENTS.—An institution of higher education administering a participating program under this section shall provide notice to all students before they enroll in the participating program that such program is receiving grant funds under this section and may be terminated, as described in paragraph (1).

(h) FINAL EVALUATION BY THIRD-PARTY REVIEWER.—

(1) IN GENERAL.—The Secretary shall direct an independent third-party evaluator to review all participating programs and conduct a final evalua-
tion in order to determine the evidence of the effectiveness of each program in achieving its objectives with regard to the quality of the education provided, reducing the cost of the degree or certificate program, and shortening the amount of time needed to complete the degree or certificate program.

(2) Evaluation Methodology.—The independent third-party evaluator shall establish evaluation methodology in carrying out the final evaluation under paragraph (1).

(3) Submission to Authorizing Committees.—The independent third-party evaluator shall publicize the final evaluation and submit such evaluation to the authorizing committees.

(4) Funding.—Not more than 1 percent of the total amount appropriated to carry out this section may be used to carry out this subsection.

(i) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section—

(1) $260,000,000 for fiscal year 2015; and

(2) such sums as may be necessary for each succeeding fiscal year.

SEC. 4. HIGHER EDUCATION ACCOUNTABILITY.

(a) Purpose; Definition.—
(1) IN GENERAL.—The purpose of this section is to establish minimum institutional accountability standards that will be required of all institutions of higher education that receive funds or whose students receive funds pursuant to title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) programs. The standards shall focus on affordability, accessibility for low- and middle-income students, and value.

(2) INSTITUTION OF HIGHER EDUCATION.—In this section:

(A) IN GENERAL.—The term “institution of higher education” means an institution of higher education described in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), except as provided in subparagraphs (B) and (C).

(B) EXCEPTION.—The term “institution of higher education” does not include institutions that solely offer graduate or professional degree programs of study.

(C) INSTITUTIONS.—To the extent an institution offers undergraduate programs of study and graduate or professional degree programs of study, for purposes of this section, the
term “institution of higher education” with respect to such institutions shall only include the undergraduate programs of study.

(b) Commission on Higher Education Accountability Standards.—

(1) In general.—Not later than 90 days after the date of enactment of this Act, there shall be established a Commission on Higher Education Accountability Standards (referred to in this section as the “Commission”) to make recommendations on a set of minimum accountability standards and the measures for assessing compliance with such standards for institutions of higher education that shall focus on affordability, access for low- and middle-income students, and value.

(2) Composition of the Commission.—

(A) In general.—Members of the Commission shall be appointed as follows:

(i) 5 members shall be appointed by the Majority Leader of the Senate, with the concurrence of the Minority Leader of the Senate on 2 of such members.

(ii) 5 members shall be appointed by the Majority Leader of the House of Representatives, with the concurrence of the
Minority Leader of the House of Representatives on 2 of such members.

(iii) 5 members shall be appointed by the Secretary, including at least 1 member from the National Center for Education Statistics and 1 member from the Federal Student Aid Office of the Department of Education.

(iv) In the event that any member of the Commission has not been appointed during the 90-day period after the date of enactment of this Act, the Secretary shall appoint the remaining member in order to establish the Commission.

(B) General Qualifications.—Members of the Commission shall be appointed on the basis of the individuals’—

(i) experience, integrity, impartiality, and good judgment; and

(ii) except with respect to the undergraduate students, technical qualifications and professional standing.

(C) Members of the Commission.—Members appointed under subparagraph (A)
shall be comprised of the following relevant stakeholders:

(i) 2 undergraduate student leaders from different types of institutions of higher education.

(ii) 2 members of national or regional student advocacy organizations with a track record of engagement and expertise on issues related to college costs and student debt.

(iii) 1 consumer advocate or consumer protection expert with demonstrated knowledge of consumer protection issues related to undergraduate students.

(iv) 2 representatives of faculty groups or associations with expertise related to higher education finance or governance.

(v) 1 State government official with demonstrated knowledge of State budgeting and higher education funding.

(vi) 3 administrative officers from various types of institutions of higher education, including at least 1 from a minority-serving institution.
(vii) 1 higher education researcher.

(viii) 1 State postsecondary education data system director.

(ix) 1 member from the National Center for Education Statistics.

(x) 1 member from the Federal Student Aid Office of the Department of Education.

(3) RECOMMENDATIONS.—

(A) IN GENERAL.—The Commission shall make recommendations on a set of minimum accountability standards that institutions of higher education must meet with respect to affordability, accessibility, and value in order to receive funds or that the students of such institutions may receive funds pursuant to title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) programs. The Commission shall also recommend measures and acceptable levels of performance on those measures to assess compliance with the minimum accountability standards. If the Commission cannot issue its recommendations by consensus, it shall issue its recommendations based on the views of a majority of the Commission.
(B) Required measures.—The Commission shall include, at a minimum, the following measures as part of the minimum accountability standards it shall recommend:

(i) Affordability.—The average or mean cost of tuition and other costs required for attendance after all institutional, Federal, and State grant aid is taken into account.

(ii) Accessibility.—The percentage of the total number of enrolled students who are recipients of a Federal Pell Grant under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.).

(iii) Value.—Student loan repayment rates.

(C) Other measures.—The Commission shall make recommendations on additional measures to comprise the minimum accountability standards, including the following:

(i) Affordability.—The Commission shall make recommendations on additional higher education affordability meas-
ures, including the appropriateness of the following:

(I) The cost of tuition relative to the cost to the institution of educating a student and the institution’s administrative costs.

(II) The percentage of institutional aid that is awarded on the basis of need, as opposed to merit.

(III) Annual increases in tuition after taking into account all public subsidies.

(ii) ACCESSIBILITY.—The Commission shall make recommendations on higher education accessibility measures, including the appropriateness of the following:

(I) Enrollment of low- and middle-income, underrepresented minorities, and adult students aged 25 and older.

(II) Whether institutional policies on credit transfers meet industry standards by type of receiving institution.
(iii) Value.—The Commission shall make recommendations on measures of higher education value, including the appropriateness of the following:

(I) Student progress toward completion of a postsecondary degree or certificate.

(II) Student completion of a postsecondary degree or certificate, including for transfer and part-time students, or where applicable, transfer rates to 4-year degree programs.

(III) Student retention rates.

(IV) Full-time employment and graduate degree enrollment rates after graduation.

(4) Considerations.—The Commission shall take into account the differences in missions of institutions of higher education and ensure that institutions are held to standards that are appropriate for their mission.

(5) Hearings and Report.—

(A) Hearings.—Not later than 6 months after the date of the appointment of the final member of the Commission, the Commission
shall hold public field hearings in all regions of the United States. The Commission shall hold not fewer than 8 hearings.

(B) REPORT.—Not later than 1 year after the date of the appointment of the final member of the Commission, the Commission shall prepare a report on the recommendations under paragraph (3) and submit the report to the Secretary and the authorizing committees. The report shall include the following:

(i) Recommendations for minimum accountability standards and the measures for assessing compliance with those standards for every institution of higher education that receives funds or whose students receive funds pursuant to title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) programs. The standards shall focus on affordability, access for low- and middle-income students, and value. The Commission shall recommend standards that are in accordance with the types of information that institutions of higher education are authorized to collect
and report under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

(ii) Recommendations for applying the standards to institutions of higher education with different academic missions.

(iii) Recommendations for periodic re-evaluation of the standards and their efficacy by the Secretary.

(iv) Recommendations for sharing institutions’ performance with respect to the standards with prospective students and conducting complementary consumer education for students.

(v) Recommendations for the criteria the Secretary should use to reward institutions of higher education that meet and exceed the minimum accountability standards.

(vi) Recommendations to Congress on reforms to statutory or regulatory limitations on the collection and availability of data that would improve the Secretary’s ability to assess institutions’ compliance with minimum standards of affordability, accessibility, and value.
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(6) **Securing information.**—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out its duties under this section. The Commission may request the head of any State or local department or agency to furnish such information to the Commission.

(7) **Final standards.**—

(A) **In general.**—Not later than 1 year after receiving the report under paragraph (5), the Secretary shall publish a final rule on institutional accountability standards. The standards shall be determined by the Secretary after giving due consideration to the recommended standards provided by the Commission. The Secretary shall set forth in writing the reasons for any deviation from the Commission’s recommendations for any standard or measure and shall submit the written statement to the authorizing committees.

(B) **Required measures to be included.**—In carrying out subparagraph (A), the Secretary shall include the measures described in subsection (b)(3)(B) that the Com-
mission is required to include as part of its minimum accountability standards.

(8) **ASSESSMENT.**—The Secretary shall annually assess compliance with the institutional accountability standards. On September 30 of the year following the publication of the final rule as required under paragraph (7) and every year thereafter, the Secretary shall publish a list of each institution of higher education that participates in title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) and the institution’s level of compliance with the accountability standards. The list shall be made easily accessible to the public.

(9) **IMPLEMENTATION.**—The Secretary shall establish procedures to implement this subsection, including procedures for effectively applying this subsection.

(10) **TERMINATION.**—The Commission shall terminate 60 days after the date on which the Commission submits the report under paragraph (5).

(c) **INCENTIVIZE IMPROVEMENT FOR BELOW-STANDARD INSTITUTIONS.**—

(1) **IN GENERAL.**—An institution of higher education that participates in title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.)
programs and that does not meet the institutional accountability standards adopted under subsection (b)—

(A) shall be deemed to be in probationary status; and

(B) shall work with the Secretary to develop a plan for how the institution will achieve compliance not later than 5 years after the date of the determination of noncompliance.

(2) Continuous Improvement.—For each year following a determination that an institution of higher education does not meet the institutional accountability standards adopted under subsection (b), the institution shall demonstrate to the Secretary continuous improvement in following its plan to achieve compliance.

(3) Failure to Make Continuous Improvement.—

(A) In General.—

(i) 2 Years Out.—If an institution of higher education does not show continuous improvement 2 years after a determination that it does not meet the institutional accountability standards adopted under subsection (b), the institution shall pay to the
Secretary an amount equal to 10 percent of the total amount of funds made available under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) to students in attendance with an undergraduate enrollment status at the institution during the prior academic year, to be deposited into the fund described in subparagraph (C).

(ii) 3 YEARS OUT.—If an institution of higher education does not show continuous improvement 3 years after a determination that it does not meet the institutional accountability standards adopted under subsection (b), the institution shall pay to the Secretary an amount equal to 20 percent of the total amount of funds made available under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) to students in attendance with an undergraduate enrollment status at the institution during the prior academic year, to be deposited into the fund described in subparagraph (C).
(iii) 4 YEARS OUT.—If an institution of higher education does not show continuous improvement 4 years after a determination that it does not meet the institutional accountability standards adopted under subsection (b), the institution shall pay to the Secretary an amount equal to 30 percent of the total amount of funds made available under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) to students in attendance with an undergraduate enrollment status at the institution during the prior academic year, to be deposited into the fund described in subparagraph (C).

(B) WAIVER AND PAYMENT PLAN.—

(i) WAIVER.—The Secretary may waive a requirement of an institution of higher education paying the amount owed pursuant to subparagraph (A) if the Secretary determines such a waiver is necessary to avoid extreme hardship for the students enrolled at such institution.

(ii) PAYMENT PLAN.—The Secretary may allow an institution of higher edu-
cation that owes an amount under subparagraph (A) to enter into a payment plan to pay such amount.

(C) **Fund.**—There shall be established a special fund in which amounts refunded by an institution of higher education under this paragraph shall be placed to be used pursuant to subsection (d).

(4) **Noncompliance Five Years Out.**—If an institution of higher education fails to achieve compliance by not later than the date that is 5 years after the date of the determination that the institution does not meet the institutional accountability standards, the institution—

(A) shall not be eligible to receive funds under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) for the academic year following the date that is 5 years after the date of the determination;

(B) shall be required to submit a teach-out plan, as described in section 487(f) of the Higher Education Act of 1965 (20 U.S.C. 1094(f)); and

(C) shall be eligible to receive funds under such title IV when the institution is able to
demonstrate compliance with the institutional accountability standards.

(d) **Authorization of Reward Grant Program.**—

(1) **In General.**—From amounts available in the fund established pursuant to subsection (e)(3)(C), the Secretary shall award grants, on a competitive basis, to institutions of higher education that meet or exceed the institutional accountability standards adopted under subsection (b). In determining the criteria for awarding grants, the Secretary shall give due consideration to the recommendations of the Commission.

(2) **Use for Financial Aid.**—An institution of higher education awarded a grant under paragraph (1) shall use the grant funds for need-based aid to students who are eligible for Federal Pell Grants under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.).