H. R. 2861

To amend the Higher Education Act of 1965 to establish State and Indian tribe grants for community colleges and grants for Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-Serving Institutions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2021

Mr. Levin of Michigan (for himself, Mr. Scott of Virginia, Mr. Moulton, and Ms. Dean) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Higher Education Act of 1965 to establish State and Indian tribe grants for community colleges and grants for Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-Serving Institutions, 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 “America’s College Promise Act of 2021”.

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TITLE I—STATE AND INDIAN TRIBE GRANTS FOR COMMUNITY COLLEGES

SEC. 101. PROGRAM AUTHORIZED.

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—AMERICA’S COLLEGE PROMISE

FEDERAL–STATE PARTNERSHIP

“Subpart 1—State and Indian Tribe Grants for Community Colleges

“SEC. 499A. IN GENERAL.

“From amounts appropriated under section 499G for any fiscal year, the Secretary shall award grants to eligible States and Indian tribes to pay the Federal share of expenditures needed to carry out the activities and services described in section 499E.

“SEC. 499B. FEDERAL SHARE; NON-FEDERAL SHARE.

“(a) FEDERAL SHARE.—

“(1) IN GENERAL.—Subject to paragraph (2), the amount of the Federal share of a grant under this subpart shall be based on a formula, determined by the Secretary, that provides, for each eligible student in the State or Indian tribe, a per-student amount that is equal to 75 percent of—
“(A) for the 2022–2023 award year, the average resident community college tuition and fees per student in all States for the most recent year for which data are available; and

“(B) for each subsequent award year, the amount determined under this paragraph for the preceding award year, increased by the lesser of—

“(i) a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) since the date of such determination; or

“(ii) 3 percent.

“(2) INDIAN TRIBES.—The amount of the Federal share for an Indian tribe receiving a grant under this subpart shall be the lesser of—

“(A) the amount determined in accordance with paragraph (1) with respect to such tribe; or

“(B) the amount that is 95 percent of the total amount needed to waive tuition and fees for all eligible students enrolled in the community colleges operated or controlled by such tribe.
“(b) State or Tribal Share.—

“(1) Formula.—

“(A) In general.—Subject to subparagraph (B), the State or tribal share of a grant under this subpart for each fiscal year shall be the amount needed to pay 25 percent of the average resident community college tuition and fees per student in the 2022–2023 award year for all eligible students in the State or tribe for such fiscal year.

“(B) Indian tribes.—The tribal share of a grant awarded to an Indian tribe under this subpart for each fiscal year shall be the lesser of—

“(i) the amount determined in accordance with subparagraph (A) with respect to such tribe; or

“(ii) 5 percent of the total amount needed to waive tuition and fees for all eligible students enrolled in the community colleges operated or controlled by such tribe.

“(2) Need-based aid.—A State or Indian tribe may include, as part of the State or tribal share, any need-based financial aid that—
“(A) is provided from State or tribal funds to an eligible student; and

“(B) may be used by such student to pay costs of attendance other than tuition and fees.

“(3) No in-kind contributions.—A State or Indian tribe shall not include in-kind contributions for purposes of the State or tribal share described in paragraph (1).

“(e) Determining Number of Eligible Students.—

“(1) In general.—For purposes of subsection (a) and (b), the Secretary shall develop and implement a formula for accurately estimating the number of eligible students in a State or Indian tribe and for making adjustments based on the number of eligible students enrolled on less than a full-time basis and the associated tuition and fees charged to such students in proportion to the degree to which each such student is not attending on a full-time basis.

“(2) Initial determination.—For the first year for which grants are awarded under this subpart, the number of eligible students in a State or Indian tribe shall be considered to be equal to the
number of eligible students who were in the State or
tribe for the preceding school year.

“(d) ADJUSTMENT OF GRANT AMOUNT.—Not later
than 180 days after the date on which a State or Indian
tribe receives a grant under this subpart, the Secretary
shall—

“(1) in consultation with the State or tribe con-
cerned, determine whether the actual number of eli-
gible students in the State or Tribe for the year cov-
ered by the grant is greater than the estimated num-
ber of such students that was used to determine the
amount of the grant; and

“(2) in the case of a determination under para-
graph (1) that the actual number of eligible students
in the State or Tribe is higher than such estimate,
issue a supplementary grant payment to the State or
tribe in an amount that ensures that the total
amount of the grant funds received by the State or
tribe under this subpart for the year covered by the
grant accurately reflects the higher number of eligi-
ble students.

“SEC. 499C. APPLICATIONS.

“(a) SUBMISSION.—In order to receive a grant under
this subpart, a State or tribe shall submit an application
to the Secretary at such time, in such manner, and contain-
ing such information as the Secretary may require.

“(b) CONTENTS.—Each application under subsection (a) shall include—

“(1) an estimate of the number of eligible students in the State or Indian tribe and the cost of waiving community college tuition and fees for all eligible students for each fiscal year covered by the grant;

“(2) an assurance that each community college in the State, or operated or controlled by the Indian tribe, as applicable, will waive tuition and fees for eligible students in accordance with section 499D(a);

“(3) a description of the promising and evidence-based institutional reforms and innovative practices to improve student outcomes, including transfer and completion rates, that have been or will be adopted by each such community college, such as—

“(A) providing comprehensive academic, career, and student support services (including mentoring, advising, case management services, and career pathway navigation), especially for low-income, first-generation, and adult students, and other students belonging to racial
and other groups that are historically underrepresented in higher education;

“(B) providing direct support services, or assistance in applying for such services, such as—

“(i) childcare, transportation, and emergency financial assistance;

“(ii) assistance in obtaining health insurance coverage and accessing health care services, including behavioral and mental health services;

“(iii) affordable housing;

“(iv) nutrition assistance programs or free or discounted food; and

“(v) means-tested Federal benefit programs, or similar State, tribal, or local benefit programs;

“(C) providing accelerated learning opportunities, such as dual or concurrent enrollment programs, including early college high school programs, and reforming course scheduling and credit awarding policies to better meet the needs of students and shorten time to completion;
“(D) strengthening and reforming remedial and developmental education, especially for low-income, first-generation, and adult students, and other students belonging to racial and other groups that are historically underrepresented in higher education, including through the use of multiple measures (such as a student’s college entrance examination score, grade point average, high school course list, or a placement examination) to identify students in need of remedial education;

“(E) utilizing career pathways, including through building capacity for career and technical education as defined in section 3(5) of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302(5)) and programs of study as defined in section 3(41) of such Act (20 U.S.C. 2302(41)), or degree pathways; or

“(F) providing expanded opportunities for participating in work-based learning, which may include apprenticeship programs, in students’ programs of study;

“(4) a description of how the State or Indian tribe will ensure that programs leading to a recog-
nized postsecondary credential meet the quality cri-

teria established by the State under section 123(a)

of the Workforce Innovation and Opportunity Act

(29 U.S.C. 3153(a)) or other quality criteria deter-

mined appropriate by the State or Indian tribe;

“(5) an assurance that each community college

in the State or under the authority of the Indian

tribe have entered into program participation agree-

ments under section 487;

“(6) an assurance that the State or Indian tribe

will, to the maximum extent practicable, assist eligi-

ble students in obtaining information about and ac-

cessing means-tested Federal benefit programs and

similar, State, tribal, and local benefit programs for

which such students may be eligible;

“(7) an assurance that, for each year of the

grant, the State or Indian tribe will notify each eligi-

ble student of the student’s remaining eligibility for

assistance under this subpart;

“(8) if the application is submitted by a

State—

“(A) a description of how the State will

support the scaling and increased adoption of

the reforms and practices described in para-

graph (3);
“(B) an assurance that the State will, to the extent practicable, consider changes to State law that will enable more community college students to be eligible for means-tested Federal benefit programs and similar State benefit programs;

“(C) an assurance that the State will meet the requirements of section 499D(b)(1) relating to the alignment of secondary and postsecondary education; and

“(D) an assurance that the State will meet the requirements of section 499D(b)(2) relating to the improvement of transfer pathways between institutions of higher education; and

“(9) an assurance that the State or Indian tribe will clearly communicate to prospective students, their families, and the general public—

“(A) plans to implement the program funded under this subpart; and

“(B) how eligible students can attend a community college operated by the State or tribe without paying the cost of tuition and fees.
“SEC. 499D. PROGRAM REQUIREMENTS.

“(a) General Requirements for States and Indian Tribes.—As a condition of receiving a grant under this subpart a State or Indian tribe shall meet the following requirements:

“(1) For each year of the grant the total amount of community college tuition and fees charged to an eligible student in the State or Indian tribe shall be $0.

“(2) For each year of the grant no amount of financial assistance for which an eligible student qualifies may be applied to such tuition or fees.

“(b) State Requirements.—As a condition of receiving a grant under this subpart a State shall meet the following requirements:

“(1) Alignment of K–12 and Higher Education.—

“(A) In General.—The State shall—

“(i) submit a plan to align the requirements for receiving a regular high school diploma from public schools in the State with the requirements for entering credit-bearing coursework at community colleges in such State; and

“(ii) not later than 3 years after the date on which the State first receives a
grant under this subpart, certify to the Secretary that such alignment has been achieved.

“(B) FAILURE TO CERTIFY.—If a State does not provide the certification required under subparagraph (A) by the date specified in such subparagraph, the State shall submit to the Secretary, at such time and in such manner as the Secretary may require—

“(i) a written explanation for the delay in making the certification; and

“(ii) a plan that will enable the State to make the certification by not later than 5 years after the date on which the State first received a grant under this subpart.

“(2) TRANSFER PATHWAYS.—

“(A) IN GENERAL.—The State shall—

“(i) submit a plan, developed in collaboration with faculty from institutions of higher education in the State, to improve transfer pathways between institutions of higher education in the State, including by—

“(I) ensuring that associate degrees awarded by community colleges
in the State are fully transferable to,
and credited as, the first 2 years of
related baccalaureate programs at
public institutions of higher education
in such State; and

“(II) ensuring that students at-
tending community colleges in the
State have access to comprehensive
counseling regarding the process for
transferring to a four-year institution
of higher education; and

“(ii) not later than 3 years after the
date on which the State first receives a
grant under this subpart, certify to the
Secretary that the State is carrying out
the plan submitted in accordance with
clause (i) and is meeting the requirements
of subclauses (I) and (II) of such clause.

“(B) FAILURE TO CERTIFY.—If a State
does not provide the certification required
under subparagraph (A) by the date specified in
such subparagraph, the State shall submit to
the Secretary, at such time and in such manner
as the Secretary may require—
“(i) a written explanation for the
delay in making the certification; and
“(ii) a plan that will enable the State
to make the certification by not later than
5 years after the date on which the State
first received a grant under this subpart.
“(3) APPLICABILITY.—The Secretary may not
apply the requirements under this subsection to an
Indian tribe.
“(c) NO ADDITIONAL ELIGIBILITY REQUIRE-
MENTS.—A State or Indian tribe that receives a grant
under this subpart may not impose additional eligibility
requirements on eligible students other than the require-
ments under this subpart.
“SEC. 499E. ALLOWABLE USES OF FUNDS.
“(a) IN GENERAL.—Except as provided in subsection
(b), a State or Indian tribe shall use a grant under this
subpart only to provide funds to each community college
in the State, or operated or controlled by such tribe, as
applicable, to enable each such community college to waive
tuition and fees for eligible students as required under sec-
tion 499D(a).
“(b) ADDITIONAL USES.—If a State or Indian tribe
demonstrates to the Secretary that the State or Indian
tribe has grant funds remaining after meeting the demand
for activities described in subsection (a), the State or Indian tribe may use those funds to carry out one or more of the following:

“(1) Enhancing the quality and equity of public higher education to improve student outcomes, including transfer and completion rates and labor market outcomes.

“(2) Investing in and diversifying the academic workforce.

“(3) Expanding the scope and capacity of high-quality academic and occupational skills training programs at community colleges, which may include collaboration with one or more industry or sector partnerships (as defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3201)).

“(4) Improving postsecondary education readiness in the State or Indian tribe, including through outreach and early intervention.

“(5) Expanding access to dual or concurrent enrollment programs, such as early college high school programs.

“(6) Reducing unmet need at public 4-year institutions of higher education.
“(c) USE OF FUNDS FOR ADMINISTRATIVE PURPOSES.—A State or Indian tribe that receives a grant under this subpart may not use any funds provided under this subpart for administrative purposes relating to such grant.

“(d) MAINTENANCE OF EFFORT.—A State or Indian tribe receiving a grant under this subpart shall be entitled to receive its full allotment of funds under this subpart for a fiscal year only if, for each year of the grant, the State or Indian tribe provides—

“(1) State fiscal support for higher education per FTE student at a level equal to or exceeding the average amount of State fiscal support for higher education per FTE student provided for the 3 consecutive preceding fiscal years;

“(2) financial support for operational expenses (excluding capital expenses and research and development costs) for public four-year institutions of higher education at a level equal to or exceeding the average amount provided for the 3 consecutive preceding State or Indian tribe fiscal years; and

“(3) financial support for need-based financial aid at a level equal to or exceeding the average amount provided for the 3 consecutive preceding State or Indian tribe fiscal years.
“(e) Supplement, Not Supplant.—Funds made available under this subpart shall be used to supplement, and not supplant, other Federal, State, tribal, and local funds that would otherwise be expended to carry out activities described in this section.

“(f) Report Requirements.—

“(1) Reporting by States and Indian Tribes.—A State or Indian tribe receiving a grant under this subpart shall submit to the Secretary an annual report that shall include—

“(A) the uses of grant funds under this subpart;

“(B) the progress made in fulfilling the requirements of the grant;

“(C) the rates of transfer, graduation, and attainment of recognized postsecondary credentials at participating community colleges, disaggregated by race, ethnicity, income, and age; and

“(D) any other information that the Secretary may require.

“(2) Reporting by Secretary.—The Secretary shall, on an annual basis—

“(A) compile and analyze the information described in paragraph (1); and
“(B) prepare and submit to the authorizing committees a report—

“(i) containing the analysis described in subparagraph (A); and

“(ii) an identification of State and Indian tribe best practices for achieving the purpose of this subpart.

“(g) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to eligible States and Indian tribes concerning best practices regarding the promising and evidence-based institutional reforms and innovative practices to improve student outcomes and shall disseminate such best practices among the States and Indian tribes.

“(h) CONTINUATION OF FUNDING.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a State or Indian tribe receiving a grant under this subpart for a fiscal year may continue to receive funding under this subpart for future fiscal years conditioned on the availability of budget authority and on meeting the requirements of the grant, as determined by the Secretary.

“(2) DISCONTINUATION.—The Secretary may discontinue funding of the Federal share of a grant under this subpart if the State or Indian tribe has
violated the terms of the grant or is not making ade-
quate progress in implementing the reforms de-
scribed in the application submitted under section
499C.

“SEC. 499F. AUTOMATIC STABILIZERS FOR AMERICA’S COL-
LEGE PROMISE.

“(a) MAINTENANCE OF EFFORT RELIEF.—Notwith-
standing subsection (d) of section 499E, a State that
meets the qualifying spending requirements may request
a waiver of the requirements under such subsection (d).
The Secretary shall waive the requirements of such sub-
section (d) for a State that makes a qualifying request
under this paragraph as follows:

“(1) TIER I.—With respect to each State eligi-
ble for relief under tier I, such requirements shall be
waived for the fiscal year succeeding the fiscal year
in which the determination of the State’s eligibility
for such relief is made.

“(2) TIERS II THROUGH V.—With respect to
each State eligible for relief under tier II, III, IV,
or V, such requirements shall be waived, in accord-
ance with subsection (d), for—

“(A) the fiscal year in which the deter-
mination of the State’s eligibility for such relief
is made;
“(B) the fiscal year succeeding the fiscal year described in subparagraph (A); or
“(C) both such fiscal years.

“(b) MATCH RELIEF.—
“(1) STATE MATCH RELIEF.—Notwithstanding subsection (b) of section 499B, a State that is eligible for relief under tier II, III, IV, or V may request relief with respect to the requirements of such subsection (b). The Secretary shall provide relief from the requirements of such subsection (b), for the applicable fiscal year or years, for a State that makes a qualifying request under this paragraph as follows:

“(A) TIER II.—With respect to a State that is eligible for relief under tier II, the Secretary shall—

“(i) apply section 499B(a)(1) by substituting ‘80 percent’ for ‘75 percent’; and
“(ii) apply section 499B(b)(1)(A) by substituting ‘20 percent’ for ‘25 percent’.

“(B) TIER III.—With respect to a State that is eligible for relief under tier III, the Secretary shall—

“(i) apply section 499B(a)(1) by substituting ‘85 percent’ for ‘75 percent’; and
“(ii) apply section 499B(b)(1)(A) by substituting ‘15 percent’ for ‘25 percent’.

“(C) TIER IV.—With respect to a State that is eligible for relief under tier IV, the Secretary shall—

“(i) apply section 499B(a)(1) by substituting ‘90 percent’ for ‘75 percent’; and

“(ii) apply section 499B(b)(1)(A) by substituting ‘10 percent’ for ‘25 percent’.

“(D) TIER V.—With respect to a State that is eligible for relief under tier V, the Secretary shall—

“(i) apply section 499B(a)(1) by substituting ‘95 percent’ for ‘75 percent’; and

“(ii) apply section 499B(b)(1)(A), by substituting ‘5 percent’ for ‘25 percent’.

“(2) APPLICABLE FISCAL YEARS.—With respect to each State eligible for relief under tier II, III, IV, or V, the Secretary shall provide the relief under paragraph (1), in accordance with subsection (d), for—

“(A) the fiscal year in which the determination of the State’s eligibility for such relief is made;
“(B) the fiscal year succeeding the fiscal year described in subparagraph (A); or

“(C) both such fiscal years.

“(e) STATE ELIGIBILITY.—A State’s eligibility for relief under this section shall be determined as follows:

“(1) TIER I.—A State shall be eligible for relief under tier I for a fiscal year in which—

“(A)(i) the State was in an elevated unemployment period at any point in the fiscal year; or

“(ii) the Nation as a whole in an elevated unemployment period at any point in the fiscal year; and

“(B) the State is not eligible for relief under any other tier.

“(2) TIER II.—A State shall be eligible for relief under tier II for a fiscal year in which—

“(A)(i) the State average unemployment rate was equal to or greater than 6.5 percent but less than 7.5 percent at any point in the fiscal year; or

“(ii) the national average unemployment rate is equal to or greater than 6.5 percent but less than 7.5 percent at any point in the fiscal year; and
“(B) the State is not eligible for relief under tier III, IV, or V.

“(3) TIER III.—A State shall be eligible for relief under tier III for a fiscal year in which—

“(A)(i) the State average unemployment rate was equal to or greater than 7.5 percent but less than 8.5 percent at any point in the fiscal year; or

“(ii) the national average unemployment rate is equal to or greater than 7.5 percent but less than 8.5 percent at any point in the fiscal year; and

“(B) the State is not eligible for relief under tier IV or V.

“(4) TIER IV.—A State shall be eligible for relief under tier IV for a fiscal year in which—

“(A)(i) the State average unemployment rate was equal to or greater than 8.5 percent but less than 9.5 percent at any point in the fiscal year; or

“(ii) the national average unemployment rate is equal to or greater than 8.5 percent but less than 9.5 percent at any point in the fiscal year; and
“(B) the State is not eligible for relief under tier V.

“(5) TIER V.—A State shall be eligible for relief under tier V for a fiscal year in which—

“(A) the State average unemployment rate was equal to or greater than 9.5 percent at any point in the fiscal year; or

“(B) the national average unemployment rate is equal to or greater than 9.5 percent at any point in the fiscal year.

“(d) DISCRETION IN THE PROVISION OF RELIEF.—

In determining the fiscal years for which to provide relief in accordance with subsections (a)(2) and (b) to a State that is eligible under tier II, III, IV, or V, the Secretary shall take into account the following:

“(1) In the case of a State that requests relief under subsection (a)(2), the fiscal years for which the State requests such relief, including—

“(A) if the State requests such relief for the fiscal year for which the determination of the State’s eligibility for such relief is made, the amount by which the State is unable to meet the requirements of section 499E(d) for such fiscal year; and
“(B) if the State requests such relief for the fiscal year succeeding the year described in subparagraph (A), the amount by which the State anticipates being unable to meet such requirements for such succeeding fiscal year.

“(2) In the case of a State that requests relief under subsection (b), the fiscal years for which the State requests such relief, including—

“(A) if the State requests such relief for the fiscal year for which the determination of the State’s eligibility for such relief is made, the extent to which the State is unable to meet the requirements of section 499B(b) for such fiscal year; and

“(B) if the State requests such relief for the fiscal year succeeding the year described in subparagraph (A), the extent to which the State anticipates being unable to meet such requirements for such succeeding fiscal year.

“(3) The actual or anticipated timing, severity, and duration of the unemployment rate increase during—

“(A) the fiscal year for which the determination of the State’s eligibility for such relief is made;
“(B) the fiscal year succeeding the fiscal year described in subparagraph (A); and

“(C) the fiscal year preceding the fiscal year described in subparagraph (A).

“(4) Other factors determined to be relevant by the Secretary.

“(e) INDIAN TRIBES.—

“(1) IN GENERAL.—For purposes of determining the eligibility of an Indian tribe to receive relief under this section—

“(A) an Indian tribe that operates or controls a community college in a State that is eligible for relief under any tier shall be treated as a State for purposes of receiving relief under such tier, except as otherwise provided in paragraph (2); and

“(B) in the case of an Indian tribe that operates or controls a community college in at least 2 different States each of which is eligible for relief under different tiers, the Indian tribe shall receive relief under the tier offering the greatest level of relief.

“(2) INDIAN TRIBE MATCH RELIEF.—Notwithstanding subsection (b) of section 499B, an Indian tribe that is eligible for relief under tier II, III, IV,
or V may request relief with respect to the requirements of such subsection (b). The Secretary shall provide relief from the requirements of section 499B(b), for the applicable fiscal year or years, for an Indian tribe that makes a qualifying request under this paragraph, by—

“(A) with respect to applying section 499B(a)(1), providing the appropriate relief described in subsection (b)(1) of this section;

“(B) applying section 499B(a)(2)(B) by substituting ‘100 percent’ for ‘95 percent’; and

“(C) applying section 499B(b)(1)(B)(ii), by substituting ‘0 percent’ for ‘5 percent’.

“(f) DEFINITIONS.—In this section:

“(1) ELEVATED UNEMPLOYMENT PERIOD.—

The term ‘elevated unemployment period’—

“(A) when used with respect to the Nation as a whole, means a consecutive, 3-month period in a fiscal year in which the national average unemployment rate is not less than 0.5 percentage points above the lowest national average unemployment rate for the 12-month period preceding such 3-month period; and

“(B) when used with respect to a State, means a consecutive, 3-month period in a fiscal
year in which the State average unemployment rate is not less than 0.5 percentage points above the lowest State average unemployment rate the 12-month period preceding such 3-month period.

“(2) QUALIFYING SPENDING REQUIREMENTS.—

The term ‘qualifying spending requirements’ means the requirements that a State not disproportionately decrease spending for any of the categories described in subparagraphs (A) through (C) of section 499E(d)(1) relative to such State’s overall, average decrease in spending for the 3 consecutive preceding fiscal years.

“(3) NATIONAL AVERAGE UNEMPLOYMENT RATE.—The term ‘national average unemployment rate’ means the average (seasonally adjusted) rate of total unemployment in all States for a consecutive, 3-month period in a fiscal year, based on data from the Bureau of Labor Statistics of the Department of Labor.

“(4) STATE AVERAGE UNEMPLOYMENT RATE.—

The term ‘State average unemployment rate’ means the average (seasonally adjusted) rate of total unemployment in a State for a consecutive, 3-month pe-
period in a fiscal year, based on data from the Bureau

“SEC. 499G. APPROPRIATIONS.

“There are authorized to be appropriated, and there
are appropriated to carry out this subpart (in addition to
any other amounts appropriated to carry out this subpart
and out of any money in the Treasury not otherwise ap-
propriated), such sums as may be necessary for fiscal year
2022 and each succeeding fiscal year.

“SEC. 499H. DEFINITIONS.

“In this subpart:

“(1) APPRENTICESHIP.—The term ‘apprentice-
ship’ means an apprenticeship program registered
under the Act of August 16, 1937 (commonly known
as the ‘National Apprenticeship Act’; 50 Stat. 664,
chapter 663; 29 U.S.C. 50 et seq.).

“(2) CAREER PATHWAY.—The term ‘career
pathway’ has the meaning given the term in section
3 of the Workforce Innovation and Opportunity Act

“(3) COMMUNITY COLLEGE.—The term ‘com-
munity college’ means a public institution of higher
education at which the highest degree that is pre-
dominantly awarded to students is an associate’s de-
gree, including 2-year Tribal Colleges or Universities
under section 316 and public 2-year institutions of higher education operated by a State.

“(4) Dual or Concurrent Enrollment Program.—The term ‘dual or concurrent enrollment program’ has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

“(5) Early College High School.—The term ‘early college high school’ has the meaning given the term in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

“(6) Eligible Student.—The term ‘eligible student’ means a student who—

“(A) is enrolled in an eligible program (as defined in section 481(b)) at a community college on not less than a half-time basis;

“(B) either—

“(i) qualifies for in-State resident community college tuition, as determined by the State or Indian tribe; or

“(ii) would qualify for such in-State resident community college tuition, but for the immigration status of such student; and
“(C) has not been enrolled (whether full-time or less than full-time) for more than 6 semesters (or the equivalent) for which the student received a waiver of community college tuition and fees under section 499D(a).

“(7) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a).

“(8) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the meaning given the term in section 101.

“(9) MEANS-TESTED FEDERAL BENEFIT PROGRAM.—The term ‘means-tested Federal benefit program’ has the meaning given the term in section 479.

“(10) RECOGNIZED POSTSECONDARY CREDENTIAL.—The term ‘recognized postsecondary credential’ has the meaning as described in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

“(11) STATE FISCAL SUPPORT FOR HIGHER EDUCATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘State fiscal sup-
port for higher education’, used with respect to a State for a fiscal year, means an amount that is equal to the gross amount of applicable State funds appropriated or dedicated, and expended by the State, including funds from lottery receipts, in the fiscal year, that are used to support institutions of higher education and student financial aid for higher education in the State.

“(B) EXCLUSIONS.—State fiscal support for higher education for a State for a fiscal year shall not include—

“(i) funds described in subparagraph (A) that are returned to the State;

“(ii) State-appropriated funds derived from Federal sources, including funds provided under section 499B(b) and section 499J(b);

“(iii) amounts that are portions of multiyear appropriations to be distributed over multiple years that are not to be spent for the year for which the calculation under this paragraph is being made, subject to subparagraph (D);
“(iv) tuition, fees, or other educational charges paid directly by a student to a public institution of higher education or to the State;

“(v) funds for—

“(I) financial aid programs provided to out-of-State institutions of higher education, including aid to students enrolled in such institutions;

“(II) merit-based financial aid to students awarded on the basis of predicted or actual academic performance;

“(III) financial aid for students attending, or annual operating expenses of, proprietary institutions of higher education (as defined in section 102(b));

“(IV) financial aid for students attending, or annual operating expenses of, unaccredited institutions;

“(V) research and development;

“(VI) hospitals, athletics, or other auxiliary enterprises; or
“(VII) corporate or other private donations directed to one or more institutions of higher education permitted to be expended by the State; or

“(vi) any other funds that the Secretary determines shall not be included in the calculation of State fiscal support for higher education for such State.

“(C) ADJUSTMENTS FOR BIENNIAL APPROPRIATIONS.—The Secretary shall take into consideration any adjustments to the calculations under this paragraph that may be required to accurately reflect State fiscal support for higher education in States with biennial appropriation cycles.

“(D) INDIAN TRIBES.—In determining the State fiscal support for higher education of an Indian tribe for a fiscal year, the Indian tribe shall be treated as a State except as otherwise determined appropriate by the Secretary.

“(12) STATE FISCAL SUPPORT FOR HIGHER EDUCATION PER FTE STUDENT.—The term ‘State fiscal support for higher education per FTE student’, used with respect to a State or Indian tribe for a fiscal year, means, the quotient of—
“(A) the State fiscal support for higher education for the previous fiscal year; divided by

“(B) the number of full-time equivalent students enrolled in public institutions of higher education in such State or tribe for such previous fiscal year.”.

TITLe II—STUDENT SUCCESS FUND

SEC. 201. STUDENT SUCCESS FUND.

Part J of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), as added by section 101, is further amended by adding at the end the following:

“Subpart 2—Student Success Fund

“SEC. 499I. IN GENERAL.

“From amounts appropriated under section 499O for any fiscal year, the Secretary shall carry out a grant program (to be known as the Student Success Fund) to make grants to eligible entities to carry out the activities and services described in section 499L.

“SEC. 499J. FEDERAL SHARE AND MATCHING FUNDS.

“(a) Federal Share.—

“(1) Formula requirements.—The Federal share of a grant under this subpart shall be based
on a formula, developed by the Secretary, that ac-
counts for—

“(A) the State or Indian tribe’s relative
share of eligible students, as determined in ac-
cordance with section 499B(c);

“(B) the State or Indian tribe’s relative
share of Federal Pell Grant recipients; and

“(C) the ratio between a State or Indian
tribe’s funding per full-time equivalent (FTE)
student at public institutions of higher edu-
cation and the average net price at public four-
year institutions of higher education, in such a
way as to reward States and Indian tribes that
keep net prices for students low while maintain-
ing their State fiscal support for higher edu-
cation.

“(2) FORMULA PUBLISHED BEFORE APPLICA-
tion Deadline.—The Secretary shall—

“(A) develop the formula described in
paragraph (1);

“(B) calculate estimated allotments for
each eligible entity under such formula; and

“(C) publish such formula and estimated
allotments not later than the date of the notice
soliciting applications for participation in the
program under this subpart.

“(b) MATCHING FUNDS.—

“(1) IN GENERAL.—Except as provided in para-
graph (2), an eligible entity participating in the pro-
gram under this subpart shall provide, from non-
Federal sources, in cash or in-kind—

“(A) in each of the first, second, third, and
fourth years of participation in the program, an
amount equal to 25 percent of the amount such
entity received under subsection (a) with re-
spect to such year;

“(B) in each of the fifth and sixth years of
participation in the program, an amount equal
to 50 percent of the amount such entity re-
ceived under subsection (a) with respect to such
year;

“(C) in each of the seventh and eighth
years of participation in the program, an
amount equal to 75 percent of the amount such
entity received under subsection (a) with re-
spect to such year; and

“(D) in each ninth year and each subse-
quent year thereafter of participation in the
program, an amount equal to 100 percent of
the amount such entity received under sub-
section (a) with respect to such year.

“(2) EXCEPTION FOR INDIAN TRIBES.—The
Secretary may modify or waive the matching fund
requirements under paragraph (1) in the case of an
eligible entity that is an Indian tribe.

“(3) REALLOTMENT.—If an eligible entity re-
turns to the Secretary any portion of the grant
amount provided to such eligible entity under this
subpart for any fiscal year, or requests a grant
amount that is less than the Federal share deter-
mined for such entity in accordance with subsection
(a), the Secretary shall reallocate such excess amount
for the succeeding fiscal year, in addition to the
amounts appropriated under 499O for such suc-
ceeding fiscal year.

“(c) SUPPLEMENT, NOT SUPPLANT.—Grant funds
awarded under this subpart shall be used to supplement,
and not supplant, other Federal, State, tribal, and local
funds that would otherwise be expended to carry out ac-
tivities assisted under this subpart.

“SEC. 499K. APPLICATIONS.

“(a) IN GENERAL.—To be eligible to participate in
the program under this subpart, an eligible entity shall
submit an application to the Secretary at such time, in
such manner, and containing such information as the Secretary may require, including—

“(1) a plan that includes—

“(A) the amount of funds requested by the eligible entity under this subpart and the intended use of such funds;

“(B) how the eligibility entity will use the requested funds to implement promising and evidence-based institutional reforms and innovative practices to improve student outcomes, including—

“(i) how such entity will use such funds to implement the reforms and practices identified by such entity under section 499C(b)(3); and

“(ii) annual implementation benchmarks that the entity will use to track progress in implementing such reforms and practices;

“(C) if the eligible entity is a State, how such eligible entity will support the scaling of evidence-based and innovative initiatives system-wide;
“(D) how the eligible entity will meet its matching fund requirements under section 499J(b);

“(E) if the eligible entity is a State, how such eligible entity will prioritize spending on the public institutions of higher education specified in paragraph (2)(B); and

“(F) the improvements the eligible entity anticipates in student outcomes, including improvements in transfer rates or completion rates, or both.

“(2) if the eligible entity is a State, an analysis that includes—

“(A) with respect to each public institution of higher education of the eligible entity—

“(i) the total per-student funding;

“(ii) the amount of per-student funding from State-appropriated funds;

“(iii) the student demographics (including data on race, ethnicity, income, disability status, and remediation); and

“(iv) transfer and completion rates, including such rates among low-income students, students of color, students with
disabilities, and students in need of remediation; and

“(B) an analysis of whether, of the public institutions of higher education of the eligible entity, the public institutions of higher education that received less funding on a per-student basis described in clause (i) or (ii), or both, of subparagraph (A), are serving disproportionately high shares of low-income students, students of color, students with disabilities, or students in need of remediation.

“(b) APPROVAL.—

“(1) IN GENERAL.—Not later than 180 days after receiving a plan under subsection (a), the Secretary shall—

“(A) approve the plan; or

“(B) require revisions to such plan.

“(2) REVISIONS REQUIRED.—An eligible entity shall make such revisions as required by the Secretary under paragraph (1)(B).

“(c) PUBLICATION.—The Secretary shall make each plan approved under subsection (b)(1)(A) and each plan revised under subsection (b)(2) available to the public on the website of the Department.
“SEC. 499L. PROGRAM REQUIREMENTS.

“(a) General Requirements.—

“(1) Report on demonstrated progress.—
For the third year in which an eligible entity participates in the program under this subpart, and every 2 years thereafter, the eligible entity shall submit a report to the Secretary, in such manner and containing such information as the Secretary may require, that includes—

“(A) the progress in meeting the annual implementation benchmarks included in the application of such eligible entity under section 499K(a)(1)(B);

“(B) the progress in improving the student outcomes identified by the entity under section 499K(a)(1)(F); and

“(C) with respect to the 2 years after such report is submitted—

“(i) a plan for the use of funds under this subpart; and

“(ii) the amount of funds requested by the eligible entity under this subpart.

“(2) Approval.—Not later than 180 days after receiving a plan under paragraph (1)(C)(i), the Secretary shall—

“(A) approve the plan; or
“(B) require revisions to such plan.

“(3) Revisions Required.—An eligible entity shall make such revisions as required by the Secretary under paragraph (2)(B).

“(b) Failure to Meet Requirements.—If an eligible entity does not meet the annual implementation benchmarks included in the application of such eligible entity under section 499K(a)(1)(B), as required to be reported under subsection (a)(1)(A), such eligible entity shall submit to the Secretary, at such time and in such manner as the Secretary may require—

“(1) a written explanation for the delay in meeting such requirements; and

“(2) a plan that will enable such eligible entity to meet such requirements not later than 1 year after the date on which the eligible entity submitted the written explanation under paragraph (1).

“(c) Publication.—The Secretary shall make each plan approved under subsection (a)(2)(A), each plan revised under subsection (a)(3), and each plan submitted under subsection (b)(2) available to the public on the website of the Department.

“SEC. 499M. ALLOWABLE USES OF FUNDS.

“(a) In General.—Except as provided in subsection (b), an eligible entity shall use a grant under this subpart
only to carry out the plan approved or revised for such year under section 499K.

“(b) Use of Funds for Administrative Purposes.—An eligible entity that receives a grant under this subpart may use not more than 5 percent of such grant for administrative purposes relating to the grant under this subpart.

“(c) Prohibited Uses of Funds.—No funds received under this section shall be used to—

“(1) pay contractors for the provision of pre-enrollment recruitment activities through a revenue sharing agreement; or

“(2) fund endowments, athletics, sectarian instruction, or religious worship.

“SEC. 499N. ELIGIBLE ENTITY DEFINED.

“In this subpart, the term ‘eligible entity’ means a State or Indian tribe that is a recipient of a grant under subpart 1.

“SEC. 499O. APPROPRIATIONS.

“(a) Authorization and Appropriations.—There are authorized to be appropriated, and there are appropriated to carry out this subpart (in addition to any other amounts appropriated to carry out this subpart and out of any money in the Treasury not otherwise appropriated),
$1,000,000,000 for fiscal year 2022 and each succeeding fiscal year.

“(b) Availability.—Funds appropriated under subsection (a) shall remain available to the Secretary until expended.”.

TITLE III—PATHWAYS TO STUDENT SUCCESS FOR HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, TRIBAL COLLEGES AND UNIVERSITIES, AND MINORITY-SERVING INSTITUTIONS

SEC. 301. GRANTS TO HISTORICALLY BLACK COLLEGES AND UNIVERSITIES, TRIBAL COLLEGES AND UNIVERSITIES, AND MINORITY-SERVING INSTITUTIONS.

Part J of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), as added and amended by this Act, is further amended by adding at the end the following:
“Subpart 3—Grants to Historically Black Colleges and Universities, Tribal Colleges and Universities, and Minority-Serving Institutions

“SEC. 499P. PATHWAYS TO STUDENT SUCCESS FOR HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

“From amounts appropriated under section 499U(a) for any fiscal year, the Secretary shall award grants to participating historically Black colleges or universities that meet the requirements of section 499S(a) to—

“(1) encourage students to enroll and successfully complete a bachelor’s degree at such colleges and universities;

“(2) provide incentives to community college students to transfer to such colleges and universities through strong transfer pathways to complete a bachelor’s degree program; and

“(3) support such colleges and universities to better serve new and existing students by engaging in reforms and innovations designed to improve completion rates and other student outcomes.

“SEC. 499Q. PATHWAYS TO STUDENT SUCCESS FOR TRIBAL COLLEGES AND UNIVERSITIES.

“From amounts appropriated under section 499U(a) for any fiscal year, the Secretary shall award grants to
participating Tribal Colleges or Universities that meet the requirements of section 499S(a) to—

“(1) encourage students to enroll and successfully complete a bachelor’s degree at such Colleges and Universities;

“(2) provide incentives to community college students to transfer to such Colleges and Universities through strong transfer pathways to complete a bachelor’s degree program; and

“(3) support such Colleges and Universities to better serve new and existing students by engaging in reforms and innovations designed to improve completion rates and other student outcomes.

“SEC. 499R. PATHWAYS TO STUDENT SUCCESS FOR ALASKA NATIVE-SERVING INSTITUTIONS, ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER-SERVING INSTITUTIONS, HISPANIC-SERVING INSTITUTIONS, NATIVE AMERICAN-SERVING NONTRIBAL INSTITUTIONS, NATIVE HAWAIIAN-SERVING INSTITUTIONS, AND PREDOMINANTLY BLACK INSTITUTIONS.

“From amounts appropriated under section 499U(a) for any fiscal year, the Secretary shall award grants to participating Alaska Native-serving institutions, Asian
American and Native American Pacific Islander-serving institutions, Hispanic-serving institutions, Native American-serving nontribal institutions, Native Hawaiian-serving institutions, and Predominantly Black institutions that meet the requirements of section 499S(a) to—

“(1) encourage students to enroll and successfully complete a bachelor’s degree at such institutions;

“(2) provide incentives to community college students to transfer to such institutions through strong transfer pathways to complete a bachelor’s degree program; and

“(3) support such institutions to better serve new and existing students by engaging in reforms and innovations designed to improve completion rates and other student outcomes.

"SEC. 499S. GRANT TERMS."

“(a) INSTITUTIONAL ELIGIBILITY.—An institution shall meet the requirements of this subsection if the institution—

“(1) is a public or not-for-profit 4-year institution that has a student body of which not less than 35 percent are low-income students;

“(2) commits to maintaining or adopting and implementing promising and evidence-based institu-
tional reforms and innovative practices to improve the completion rates and other student outcomes, such as—

“(A) providing comprehensive academic, career, and student support services (including mentoring, advising, case management services, and career pathway navigation), especially for low-income, first-generation, and adult students, and other students belonging to racial and other groups that are historically underrepresented in higher education;

“(B) providing direct support services, or assistance in applying for such services, such as—

“(i) childcare, transportation, and emergency financial assistance;

“(ii) assistance in obtaining health insurance coverage and accessing health care services, including behavioral and mental health services;

“(iii) affordable housing;

“(iv) nutrition assistance programs or free or discounted food; and
“(v) means-tested Federal benefit programs, or similar State, tribal, or local benefit programs;

“(C) providing accelerated learning opportunities and degree pathways, such as dual enrollment and pathways to graduate and professional degree programs;

“(D) partnering with employers, industry, not-for-profit associations, and other groups to provide opportunities to advance learning outside the classroom, including—

“(i) work-based learning opportunities (such as internships or apprenticeships); or

“(ii) programs designed to improve inter-cultural development and personal growth (such as foreign exchange and study abroad programs); or

“(E) strengthening remedial education, especially for low-income, first-generation, and adult students, and other students belonging to racial and other groups that are historically underrepresented in higher education, including through the use of multiple measures (such as a student’s college entrance examination score, grade point average, high school course list, or
a placement examination) to identify students
in need of remedial education;

“(3) sets performance goals for improving stu-
dent outcomes for the duration of the grant; and

“(4) in the case of an institution receiving a
grant for transfer students, has a formal, statewide
articulation agreement with community colleges in
the State in which such institution operates that
guarantees—

“(A) that a student who earns postsec-
ondary credit at any community college in such
State shall be able to fully transfer such credit
toward meeting related degree or certificate re-
quirements at such institution; and

“(B) that associate degrees awarded by
community colleges in the State are fully trans-
ferable to, and credited as, the first 2 years of
related baccalaureate programs at such institu-
tion.

“(b) GRANT AMOUNT.—

“(1) INITIAL AMOUNT.—For the first year that
an eligible institution participates in the grant pro-
gram under this subpart and subject to paragraph
(3), such eligible institution shall receive a grant in
an amount based on the product of—
“(A) the actual cost of tuition and fees at
the eligible institution in such year (referred to
in this subpart as the per-student rebate); and

“(B) the number of eligible students en-
rolled in the eligible institution for the pre-
ceeding year.

“(2) Subsequent Increases.—For each suc-
cceeding year after the first year of the grant pro-
gram under this subpart, each participating eligible
institution shall receive a grant in the amount deter-
mined under paragraph (1) for such year, except
that in no case shall the amount of the per-student
rebate for an eligible institution increase by more
than 3 percent as compared to the amount of such
rebate for the preceding year.

“(3) Limitations.—

“(A) Maximum Per-student Rebate.—
No eligible institution participating in the grant
program under this subpart shall receive a per-
student rebate amount for any year that is
greater than the national average of annual tui-
tion and fees at public 4-year institutions of
higher education for such year, as determined
by the Secretary.
“(B) FIRST-YEAR TUITION AND FEES.—

During the first year of participation in the grant program under this subpart, no eligible institution may increase tuition and fees at a rate greater than any annual increase at the eligible institution in the previous 5 years.

“(4) STUDENTS ENROLLED LESS THAN FULL-TIME.—The Secretary shall develop and implement a formula for making adjustments to grant amounts under this subpart based on the number of eligible students at each eligible institution enrolled less than full-time and the associated tuition and fees charged to such students in proportion to the degree to which each such student is not attending on a full-time basis.

“(c) APPLICATION.—An eligible institution that desires a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

“(d) USE OF FUNDS.—Funds awarded under this subpart to a participating eligible institution shall be used to waive or significantly reduce tuition and fees for eligible students by an amount not to exceed the annual per-student rebate amount. Such funds under this subpart may only be used to waive or reduce tuition and fees for the
first 60 credits for which an eligible student is enrolled in the participating eligible institution.

“(e) SUPPLEMENT, NOT SUPPLANT.—Funds made available under section 499U to carry out this subpart shall be used to supplement, and not supplant, other Federal, State, tribal, and local funds that would otherwise be expended to carry out activities under this subpart.

“SEC. 499T. DEFINITIONS.

“In this subpart:

“(1) ALASKA NATIVE-SERVING INSTITUTION.—The term ‘Alaska Native-serving institution’ has the meaning given such term in section 317(b).

“(2) ASIAN AMERICAN AND NATIVE AMERICAN PACIFIC ISLANDER-SERVING INSTITUTION.—The term ‘Asian American and Native American Pacific Islander-serving institution’ has the meaning given such term in section 371(c).

“(3) ELIGIBLE STUDENT.—

“(A) DEFINITION.—The term ‘eligible student’ means a student, regardless of age, who—

“(i) is enrolled in an eligible program (as defined in section 481(b)) at a participating eligible institution, on at least a half-time basis;

“(ii) is a low-income student;
“(iii) has been enrolled at such participating eligible institution under this subpart for not more than 60 credits; and

“(iv) has not been enrolled (whether full-time or less than full-time) for more than 6 semesters (or the equivalent) for which the student received a benefit under this subpart.

“(4) Hispanic-serving institution.—The term ‘Hispanic-serving institution’ has the meaning given such term in section 502.

“(5) Historically Black college or university.—The term ‘historically Black college or university’ means a part B institution described in section 322(2).

“(6) Low-income student.—The term ‘low-income student’ shall include—

“(A) any student eligible for a Federal Pell Grant under section 401; and

“(B) any student who meets the financial eligibility criteria for receiving a Federal Pell Grant under section 401, but who is ineligible to receive a Federal Pell Grant.

“(7) Native American-serving nontribal institution.—The term ‘Native American-serving
nontribal institution’ has the meaning given such term in section 371(c).

“(8) NATIVE HAWAIIAN-SERVING INSTITUTION.—The term ‘Native Hawaiian-serving institution’ has the meaning given such term in section 317(b).

“(9) PREDOMINANTLY BLACK INSTITUTION.—The term ‘Predominantly Black institution’ has the meaning given such term in section 371(c).

“(10) TRIBAL COLLEGE OR UNIVERSITY.—The term ‘Tribal College or University’ has the meaning given such term in section 316(b)(3).

“SEC. 499U. APPROPRIATIONS.

“(a) AUTHORIZATION AND APPROPRIATIONS FOR HBCU, TCU, AND MSI GRANTS.—For the purpose of carrying out this subpart there are authorized to be appropriated, and there are appropriated—

“(1) $98,100,000 for fiscal year 2022;
“(2) $321,040,000 for fiscal year 2023;
“(3) $1,912,010,000 for fiscal year 2024;
“(4) $1,988,710,000 for fiscal year 2025;
“(5) $2,068,960,000 for fiscal year 2026;
“(6) $2,151,010,000 for fiscal year 2027;
“(7) $2,184,900,000 for fiscal year 2028;
“(8) $2,329,370,000 for fiscal year 2029;
“(9) $2,423,910,000 for fiscal year 2030; and
“(10) $2,521,990,000 for fiscal year 2031 and each succeeding fiscal year.

“(b) AVAILABILITY.—Funds appropriated under subsection (a) for a fiscal year are to remain available to the Secretary through the two fiscal years following such fiscal year.

“(c) INSUFFICIENT FUNDS.—If the amount appropriated under subsection (a) for a fiscal year is not sufficient to award each institution participating in the grant programs under sections 499P, 499Q, and 499R a grant under this subpart equal to 100 percent of the grant amount determined under section 499S(b), the Secretary may ratably reduce the amount of each such grant or take other actions necessary to ensure an equitable distribution of such amount appropriated under subsection (a).”.