

115TH CONGRESS
2D SESSION

H. R. 6947

To provide for higher education reform.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 2018

Mr. HIMES introduced the following bill; which was referred to the Committee on Education and the Workforce

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 2018”.

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-
11 ate and the Committee on Education and the Work-
12 force of the House of Representatives.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of Education.

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

5 (a) PURPOSE; DEFINITION.—

6 (1) PURPOSE.—The purpose of this section is
7 to authorize an evidence-based grant program to
8 promote greater experimentation among institutions
9 of higher education to increase the level of student
10 attainment of postsecondary and graduate certifi-
11 cates and degrees through innovative programs de-
12 signed to decrease the cost and time required to
13 complete postsecondary and graduate programs
14 while improving the quality and effectiveness of post-
15 secondary education programs, providing accelerated
16 degree or certificate programs, and increasing on-
17 time graduation rates.

18 (2) INSTITUTION OF HIGHER EDUCATION.—In
19 this section, the term “institution of higher edu-
20 cation” has the meaning given the term in section
21 102 of the Higher Education Act of 1965 (20
22 U.S.C. 1002).

23 (b) INCENTIVE GRANTS FOR INNOVATIVE PROGRAMS
24 THAT IMPROVE QUALITY AND AFFORDABILITY.—

25 (1) IN GENERAL.—

1 (A) GRANTS.—The Secretary shall, for a
2 5-year award term, award grants to not more
3 than 15 institutions of higher education,
4 through a competitive process described in this
5 section, to enable the institutions to carry out
6 programs designed to graduate students with
7 certificates or degrees at significantly lower
8 costs for students and within shorter time peri-
9 ods than traditional programs while improving
10 the quality and effectiveness of the programs.

11 (B) GOOD STANDING REQUIREMENT.—
12 Only those institutions of higher education that
13 are in good standing with the administration of
14 their student assistance programs under title IV
15 of the Higher Education Act of 1965 (20
16 U.S.C. 1070 et seq.) shall be eligible to receive
17 grants under subparagraph (A).

18 (2) DISTRIBUTION OF GRANT FUNDS.—Grant
19 payments shall be awarded with an initial distribu-
20 tion of 20 percent of the total grant amount, fol-
21 lowed by a distribution of 10 percent of the total
22 grant amount prior to the second, third, and fourth
23 years of the program, and the remaining 50 percent
24 of the total grant amount after the program receives

1 its final satisfactory annual evaluation by the Sec-
2 retary in accordance with subsection (f)(1).

3 (3) DESCRIPTION OF INNOVATIVE PROGRAMS.—

4 The programs described under paragraph (1) shall
5 include those that—

6 (A) utilize online instruction, including dis-
7 tance education (as defined in section 103 of
8 the Higher Education Act of 1965 (20 U.S.C.
9 1003)), or online interaction components, or on-
10 line instruction integrated with classroom or in-
11 person instruction;

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

18 (C) utilize integration of experiential learn-
19 ing and design of customized programs of
20 study, to promote completion or alignment with
21 medium- and long-term employment needs;

22 (D) allow students to be dually or concur-
23 rently enrolled in the postsecondary program
24 and a secondary school, or a postsecondary pro-
25 gram and a graduate program;

1 (E) allow students to transfer credits from
2 secondary to postsecondary to graduate pro-
3 grams, such as between associate's and bach-
4 elor's degree programs, without undue burdens,
5 cost, or loss of credit to students to encourage
6 early and on-time completion of a postsecondary
7 degree or certificate; or

8 (F) utilize any other innovative, evidence-
9 based method of postsecondary education that
10 provides cost-effective, high-quality methods for
11 instruction, student learning, and use of avail-
12 able technology-based resources, including hy-
13 brid models incorporating elements of the pro-
14 gram types set forth in subparagraphs (A), (B),
15 (C), (D), and (E), and adaptive learning tech-
16 nologies.

17 (c) APPLICATIONS.—

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

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

1 (A) a description of the institution's qual-
2 ity assurances for the programs to be offered;

3 (B) a description of the statutory and reg-
4 ulatory requirements for which a waiver is
5 sought under subsection (e) and the reasons for
6 which the waiver is sought;

7 (C) a description of the programs to be of-
8 fered;

9 (D) a description of the students eligible
10 for the programs offered, including any eligi-
11 bility limitations;

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

15 (F) a description of how the proposed pro-
16 gram will improve the quality of its postsec-
17 ondary certificates or degrees, reduce tuition
18 and other costs to students, and reduce enroll-
19 ment time;

20 (G) a description of the data (or any other
21 evidence) that indicate that the programs to be
22 offered will likely lead to the outcomes de-
23 scribed in subparagraph (F);

24 (H) a complete listing of the institution's
25 performance goals and measures regarding as-

1 assessments of the quality of its postsecondary
2 certificates or degrees, amount of tuition and
3 costs charged to students, and the amount of
4 enrollment time needed by students to complete
5 the postsecondary certificates or degrees; and

6 (I) any other information as the Secretary
7 may require.

8 (d) AWARDING OF GRANTS.—

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

12 (2) PRIORITY.—In awarding grants under this
13 section, the Secretary shall give priority to an insti-
14 tution of higher education that the Secretary deter-
15 mines—

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

19 (B) has a proven record of graduating stu-
20 dents from the other programs of the institu-
21 tion;

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

1 (D) simultaneously addresses income-re-
2 lated inequalities in remedial education, college
3 access, persistence rates, and graduation rates;

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

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

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

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

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

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

9 (e) WAIVERS.—

10 (1) IN GENERAL.—Except as provided under
11 paragraph (2), with respect to institutions of higher
12 education awarded grants under this section, the
13 Secretary may waive—

14 (A) subsection (a) or (b) of section 481 of
15 the Higher Education Act of 1965 (20 U.S.C.
16 1088(a) and (b)), as such subsections relate to
17 requirements for a minimum number of weeks
18 of instruction;

19 (B) subparagraph (A) or (B) of section
20 102(a)(3) of such Act (20 U.S.C.
21 1002(a)(3)(A) and (B));

22 (C) one or more of the regulations promul-
23 gated to carry out part F or G of title IV of
24 such Act (20 U.S.C. 1087kk et seq. and 1088

1 et seq.), which inhibit the operation of innova-
2 tive education programs; and

3 (D) any other requirement under title IV
4 of such Act (20 U.S.C. 1070 et seq.) that will
5 bias the results of the program, including a re-
6 quirement related to the award process and dis-
7 bursement of student financial aid (such as in-
8 novative delivery systems for modular or com-
9 pressed courses or other innovative systems), or
10 other management procedures or processes as
11 determined in the negotiated rulemaking proc-
12 ess under section 492 of such Act (20 U.S.C.
13 1098a), or regulations prescribed under such
14 title.

15 (2) PROHIBITION OF WAIVER.—The Secretary
16 shall not waive, pursuant to paragraph (1), any pro-
17 vision under the Higher Education Act of 1965 (20
18 U.S.C. 1001 et seq.) or a regulation promulgated to
19 carry out such Act with respect to award rules
20 (other than an award rule related to an experiment
21 in modular or compressed schedules), grant and loan
22 maximum award amounts, and need analysis re-
23 quirements, unless the waiver of such provision is
24 authorized by another provision under such Act.

25 (f) EVALUATION AND REPORTS.—

1 (1) EVALUATION AND ACCOUNTABILITY PROC-
2 ESS.—The Secretary shall establish an evaluation
3 and accountability process for the programs author-
4 ized under this section and shall administer such
5 process on an annual basis. Such evaluations shall
6 include—

7 (A) the extent to which the institution of
8 higher education has met the goals set forth in
9 its application to the Secretary, including the
10 quality of education provided by participating
11 programs;

12 (B) the number and types of students par-
13 ticipating in the programs offered, including the
14 progress of participating students toward recog-
15 nized certificates or degrees;

16 (C) issues related to student financial as-
17 sistance;

18 (D) the extent to which any statutory or
19 regulatory requirements present difficulties for
20 students or institutions in the participating pro-
21 grams; and

22 (E) an analysis of the program's progress
23 with each of its objectives, including the num-
24 ber and rate of completion of participating stu-
25 dents toward recognized certificates or degrees,

1 prices charged to students, time required to
2 complete the participating programs, on-time
3 completion rates of participating students, and
4 indicators of program quality.

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

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

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

18 (A) the programs authorized under this
19 section; and

20 (B) the number and types of students re-
21 ceiving assistance under this section for instruc-
22 tion leading to a recognized degree or certifi-
23 cate, including the progress of such students to-
24 ward recognized certificates and the degree to

1 which participation in such programs leading to
2 such certificates increased.

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

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

10 (B) provide technical assistance;

11 (C) monitor fluctuations in the student
12 population enrolled in the participating pro-
13 gram; and

14 (D) assess whether each participating pro-
15 gram is improving the quality of postsecondary
16 credentials and meeting the quality control
17 measures set by the Secretary.

18 (g) CONSUMER PROTECTION FOR STUDENTS.—

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

1 (A) the institution of higher education ad-
2 ministering the program shall provide imme-
3 diate notice to students enrolled in the program
4 and shall prepare a teach-out plan, as described
5 in section 487(f) of the Higher Education Act
6 of 1965 (20 U.S.C. 1094(f)); and

7 (B) the Secretary shall—

8 (i) ensure that—

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

11 (II) the institution of higher edu-
12 cation administering the program is in
13 compliance with the notice and teach-
14 out requirements under subparagraph
15 (A); and

16 (ii) assess a fine to an institution of
17 higher education administering the pro-
18 gram that is not in compliance with the
19 notice and teach-out requirements under
20 subparagraph (A).

21 (2) NOTICE AND DISCLOSURE FOR STU-
22 DENTS.—An institution of higher education admin-
23 istering a participating program under this section
24 shall provide notice to all students before they enroll
25 in the participating program that such program is

1 receiving grant funds under this section and may be
2 terminated, as described in paragraph (1).

3 (h) FINAL EVALUATION BY THIRD-PARTY RE-
4 VIEWER.—

5 (1) IN GENERAL.—The Secretary shall direct
6 an independent third-party evaluator to review all
7 participating programs and conduct a final evalua-
8 tion in order to determine the evidence of the effec-
9 tiveness of each program in achieving its objectives
10 with regard to the quality of the education provided,
11 reducing the cost of the degree or certificate pro-
12 gram, and shortening the amount of time needed to
13 complete the degree or certificate program.

14 (2) EVALUATION METHODOLOGY.—The inde-
15 pendent third-party evaluator shall establish evalua-
16 tion methodology in carrying out the final evaluation
17 under paragraph (1).

18 (3) SUBMISSION TO AUTHORIZING COMMIT-
19 TEES.—The independent third-party evaluator shall
20 publicize the final evaluation and submit such eval-
21 uation to the authorizing committees.

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

1 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section—

3 (1) \$260,000,000 for fiscal year 2019; and

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

6 **SEC. 4. HIGHER EDUCATION ACCOUNTABILITY.**

7 (a) PURPOSE; DEFINITION.—

8 (1) IN GENERAL.—The purpose of this section
9 is to establish minimum institutional accountability
10 standards that will be required of all institutions of
11 higher education that receive funds or whose stu-
12 dents receive funds pursuant to title IV of the High-
13 er Education Act of 1965 (20 U.S.C. 1070 et seq.)
14 programs. The standards shall focus on afford-
15 ability, accessibility for low- and middle-income stu-
16 dents, and value.

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

19 (A) IN GENERAL.—The term “institution
20 of higher education” means an institution of
21 higher education described in section 102 of the
22 Higher Education Act of 1965 (20 U.S.C.
23 1002), except as provided in subparagraphs (B)
24 and (C).

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

5 (C) INSTITUTIONS.—To the extent an in-
6 stitution offers undergraduate programs of
7 study and graduate or professional degree pro-
8 grams of study, for purposes of this section, the
9 term “institution of higher education” with re-
10 spect to such institutions shall only include the
11 undergraduate programs of study.

12 (b) COMMISSION ON HIGHER EDUCATION ACCOUNT-
13 ABILITY STANDARDS.—

14 (1) IN GENERAL.—Not later than 90 days after
15 the date of enactment of this Act, there shall be es-
16 tablished a Commission on Higher Education Ac-
17 countability Standards (referred to in this section as
18 the “Commission”) to make recommendations on a
19 set of minimum accountability standards and the
20 measures for assessing compliance with such stand-
21 ards for institutions of higher education that shall
22 focus on affordability, access for low- and middle-in-
23 come students, and value.

24 (2) COMPOSITION OF THE COMMISSION.—

1 (A) IN GENERAL.—Members of the Com-
2 mission shall be appointed as follows:

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

7 (ii) 5 members shall be appointed by
8 the Majority Leader of the House of Rep-
9 resentatives, with the concurrence of the
10 Minority Leader of the House of Rep-
11 resentatives on 2 of such members.

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

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

1 (B) GENERAL QUALIFICATIONS.—Members
2 of the Commission shall be appointed on the
3 basis of the individuals’—

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

6 (ii) except with respect to the under-
7 graduate students, technical qualifications
8 and professional standing.

9 (C) MEMBERS OF THE COMMISSION.—
10 Members appointed under subparagraph (A)
11 shall be comprised of the following relevant
12 stakeholders:

13 (i) 2 undergraduate student leaders
14 from different types of institutions of high-
15 er education.

16 (ii) 2 members of national or regional
17 student advocacy organizations with a
18 track record of engagement and expertise
19 on issues related to college costs and stu-
20 dent debt.

21 (iii) 1 consumer advocate or consumer
22 protection expert with demonstrated knowl-
23 edge of consumer protection issues related
24 to undergraduate students.

1 (iv) 2 representatives of faculty
2 groups or associations with expertise re-
3 lated to higher education finance or gov-
4 ernance.

5 (v) 1 State government official with
6 demonstrated knowledge of State budg-
7 eting and higher education funding.

8 (vi) 3 administrative officers from
9 various types of institutions of higher edu-
10 cation, including at least 1 from a minor-
11 ity-serving institution.

12 (vii) 1 higher education researcher.

13 (viii) 1 State postsecondary education
14 data system director.

15 (ix) 1 member from the National Cen-
16 ter for Education Statistics.

17 (x) 1 member from the Federal Stu-
18 dent Aid Office of the Department of Edu-
19 cation.

20 (3) RECOMMENDATIONS.—

21 (A) IN GENERAL.—The Commission shall
22 make recommendations on a set of minimum
23 accountability standards that institutions of
24 higher education must meet with respect to af-
25 fordability, accessibility, and value in order to

1 receive funds or that the students of such insti-
2 tutions may receive funds pursuant to title IV
3 of the Higher Education Act of 1965 (20
4 U.S.C. 1070 et seq.) programs. The Commis-
5 sion shall also recommend measures and accept-
6 able levels of performance on those measures to
7 assess compliance with the minimum account-
8 ability standards. If the Commission cannot
9 issue its recommendations by consensus, it shall
10 issue its recommendations based on the views of
11 a majority of the Commission.

12 (B) REQUIRED MEASURES.—The Commis-
13 sion shall include, at a minimum, the following
14 measures as part of the minimum account-
15 ability standards it shall recommend:

16 (i) AFFORDABILITY.—The average or
17 mean cost of tuition and other costs re-
18 quired for attendance after all institu-
19 tional, Federal, and State grant aid is
20 taken into account.

21 (ii) ACCESSIBILITY.—The percentage
22 of the total number of enrolled students
23 who are recipients of a Federal Pell Grant
24 under subpart 1 of part A of title IV of the

1 Higher Education Act of 1965 (20 U.S.C.
2 1070a et seq.).

3 (iii) VALUE.—Student loan repayment
4 rates.

5 (C) OTHER MEASURES.—The Commission
6 shall make recommendations on additional
7 measures to comprise the minimum account-
8 ability standards, including the following:

9 (i) AFFORDABILITY.—The Commis-
10 sion shall make recommendations on addi-
11 tional higher education affordability meas-
12 ures, including the appropriateness of the
13 following:

14 (I) The cost of tuition relative to
15 the cost to the institution of educating
16 a student and the institution’s admin-
17 istrative costs.

18 (II) The percentage of institu-
19 tional aid that is awarded on the basis
20 of need, as opposed to merit.

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

24 (ii) ACCESSIBILITY.—The Commission
25 shall make recommendations on higher

1 education accessibility measures, including
2 the appropriateness of the following:

3 (I) Enrollment of low- and mid-
4 dle-income, underrepresented minori-
5 ties, and adult students aged 25 and
6 older.

7 (II) Whether institutional policies
8 on credit transfers meet industry
9 standards by type of receiving institu-
10 tion.

11 (iii) VALUE.—The Commission shall
12 make recommendations on measures of
13 higher education value, including the ap-
14 propriateness of the following:

15 (I) Student progress toward com-
16 pletion of a postsecondary degree or
17 certificate.

18 (II) Student completion of a
19 postsecondary degree or certificate, in-
20 cluding for transfer and part-time stu-
21 dents, or where applicable, transfer
22 rates to 4-year degree programs.

23 (III) Student retention rates.

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

4 (4) CONSIDERATIONS.—The Commission shall
5 take into account the differences in missions of insti-
6 tutions of higher education and ensure that institu-
7 tions are held to standards that are appropriate for
8 their mission.

9 (5) HEARINGS AND REPORT.—

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

16 (B) REPORT.—Not later than 1 year after
17 the date of the appointment of the final mem-
18 ber of the Commission, the Commission shall
19 prepare a report on the recommendations under
20 paragraph (3) and submit the report to the
21 Secretary and the authorizing committees. The
22 report shall include the following:

23 (i) Recommendations for minimum ac-
24 countability standards and the measures
25 for assessing compliance with those stand-

1 ards for every institution of higher edu-
2 cation that receives funds or whose stu-
3 dents receive funds pursuant to title IV of
4 the Higher Education Act of 1965 (20
5 U.S.C. 1070 et seq.) programs. The stand-
6 ards shall focus on affordability, access for
7 low- and middle-income students, and
8 value. The Commission shall recommend
9 standards that are in accordance with the
10 types of information that institutions of
11 higher education are authorized to collect
12 and report under the Higher Education
13 Act of 1965 (20 U.S.C. 1001 et seq.).

14 (ii) Recommendations for applying the
15 standards to institutions of higher edu-
16 cation with different academic missions.

17 (iii) Recommendations for periodic re-
18 evaluation of the standards and their effi-
19 cacy by the Secretary.

20 (iv) Recommendations for sharing in-
21 stitutions' performance with respect to the
22 standards with prospective students and
23 conducting complementary consumer edu-
24 cation for students.

1 (v) Recommendations for the criteria
2 the Secretary should use to reward institu-
3 tions of higher education that meet and ex-
4 ceed the minimum accountability stand-
5 ards.

6 (vi) Recommendations to Congress on
7 reforms to statutory or regulatory limita-
8 tions on the collection and availability of
9 data that would improve the Secretary's
10 ability to assess institutions' compliance
11 with minimum standards of affordability,
12 accessibility, and value.

13 (6) SECURING INFORMATION.—The Commis-
14 sion may secure directly from any Federal depart-
15 ment or agency such information as the Commission
16 considers necessary to carry out its duties under this
17 section. The Commission may request the head of
18 any State or local department or agency to furnish
19 such information to the Commission.

20 (7) FINAL STANDARDS.—

21 (A) IN GENERAL.—Not later than 1 year
22 after receiving the report under paragraph (5),
23 the Secretary shall publish a final rule on insti-
24 tutional accountability standards. The stand-
25 ards shall be determined by the Secretary after

1 giving due consideration to the recommended
2 standards provided by the Commission. The
3 Secretary shall set forth in writing the reasons
4 for any deviation from the Commission's rec-
5 ommendations for any standard or measure and
6 shall submit the written statement to the au-
7 thorizing committees.

8 (B) REQUIRED MEASURES TO BE IN-
9 CLUDED.—In carrying out subparagraph (A),
10 the Secretary shall include the measures de-
11 scribed in paragraph (3)(B) that the Commis-
12 sion is required to include as part of its min-
13 imum accountability standards.

14 (8) ASSESSMENT.—The Secretary shall annu-
15 ally assess compliance with the institutional account-
16 ability standards. On September 30 of the year fol-
17 lowing the publication of the final rule as required
18 under paragraph (7) and every year thereafter, the
19 Secretary shall publish a list of each institution of
20 higher education that participates in title IV of the
21 Higher Education Act of 1965 (20 U.S.C. 1070 et
22 seq.) and the institution's level of compliance with
23 the accountability standards. The list shall be made
24 easily accessible to the public.

1 (9) IMPLEMENTATION.—The Secretary shall es-
2 tablish procedures to implement this subsection, in-
3 cluding procedures for effectively applying this sub-
4 section.

5 (10) TERMINATION.—The Commission shall
6 terminate 60 days after the date on which the Com-
7 mission submits the report under paragraph (5).

8 (c) INCENTIVIZE IMPROVEMENT FOR BELOW-STAND-
9 ARD INSTITUTIONS.—

10 (1) IN GENERAL.—An institution of higher edu-
11 cation that participates in title IV of the Higher
12 Education Act of 1965 (20 U.S.C. 1070 et seq.)
13 programs and that does not meet the institutional
14 accountability standards adopted under subsection
15 (b)—

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

18 (B) shall work with the Secretary to de-
19 velop a plan for how the institution will achieve
20 compliance not later than 5 years after the date
21 of the determination of noncompliance.

22 (2) CONTINUOUS IMPROVEMENT.—For each
23 year following a determination that an institution of
24 higher education does not meet the institutional ac-
25 countability standards adopted under subsection (b),

1 the institution shall demonstrate to the Secretary
2 continuous improvement in following its plan to
3 achieve compliance.

4 (3) FAILURE TO MAKE CONTINUOUS IMPROVE-
5 MENT.—

6 (A) IN GENERAL.—

7 (i) 2 YEARS OUT.—If an institution of
8 higher education does not show continuous
9 improvement 2 years after a determination
10 that it does not meet the institutional ac-
11 countability standards adopted under sub-
12 section (b), the institution shall pay to the
13 Secretary an amount equal to 10 percent
14 of the total amount of funds made avail-
15 able under title IV of the Higher Edu-
16 cation Act of 1965 (20 U.S.C. 1070 et
17 seq.) to students in attendance with an un-
18 dergraduate enrollment status at the insti-
19 tution during the prior academic year, to
20 be deposited into the fund described in
21 subparagraph (C).

22 (ii) 3 YEARS OUT.—If an institution
23 of higher education does not show contin-
24 uous improvement 3 years after a deter-
25 mination that it does not meet the institu-

1 tional accountability standards adopted
2 under subsection (b), the institution shall
3 pay to the Secretary an amount equal to
4 20 percent of the total amount of funds
5 made available under title IV of the Higher
6 Education Act of 1965 (20 U.S.C. 1070 et
7 seq.) to students in attendance with an un-
8 dergraduate enrollment status at the insti-
9 tution during the prior academic year, to
10 be deposited into the fund described in
11 subparagraph (C).

12 (iii) 4 YEARS OUT.—If an institution
13 of higher education does not show contin-
14 uous improvement 4 years after a deter-
15 mination that it does not meet the institu-
16 tional accountability standards adopted
17 under subsection (b), the institution shall
18 pay to the Secretary an amount equal to
19 30 percent of the total amount of funds
20 made available under title IV of the Higher
21 Education Act of 1965 (20 U.S.C. 1070 et
22 seq.) to students in attendance with an un-
23 dergraduate enrollment status at the insti-
24 tution during the prior academic year, to

1 be deposited into the fund described in
2 subparagraph (C).

3 (B) WAIVER AND PAYMENT PLAN.—

4 (i) WAIVER.—The Secretary may
5 waive a requirement of an institution of
6 higher education paying the amount owed
7 pursuant to subparagraph (A) if the Sec-
8 retary determines such a waiver is nec-
9 essary to avoid extreme hardship for the
10 students enrolled at such institution.

11 (ii) PAYMENT PLAN.—The Secretary
12 may allow an institution of higher edu-
13 cation that owes an amount under sub-
14 paragraph (A) to enter into a payment
15 plan to pay such amount.

16 (C) FUND.—There shall be established a
17 special fund in which amounts refunded by an
18 institution of higher education under this para-
19 graph shall be placed to be used pursuant to
20 subsection (d).

21 (4) NONCOMPLIANCE FIVE YEARS OUT.—If an
22 institution of higher education fails to achieve com-
23 pliance by not later than the date that is 5 years
24 after the date of the determination that the institu-

1 tion does not meet the institutional accountability
2 standards, the institution—

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

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

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

16 (d) AUTHORIZATION OF REWARD GRANT PRO-
17 GRAM.—

18 (1) IN GENERAL.—From amounts available in
19 the fund established pursuant to subsection
20 (c)(3)(C), the Secretary shall award grants, on a
21 competitive basis, to institutions of higher education
22 that meet or exceed the institutional accountability
23 standards adopted under subsection (b). In deter-
24 mining the criteria for awarding grants, the Sec-

1 retary shall give due consideration to the rec-
2 ommendations of the Commission.

3 (2) USE FOR FINANCIAL AID.—An institution of
4 higher education awarded a grant under paragraph
5 (1) shall use the grant funds for need-based aid to
6 students who are eligible for Federal Pell Grants
7 under subpart 1 of part A of title IV of the Higher
8 Education Act of 1965 (20 U.S.C. 1070a et seq.).

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