

114TH CONGRESS  
1ST SESSION

# S. 2111

To establish an alternative, outcomes-based process for authorizing innovative, high-quality higher education providers to participate in programs under title IV of the Higher Education Act of 1965.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 2015

Mr. BENNET (for himself and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To establish an alternative, outcomes-based process for authorizing innovative, high-quality higher education providers to participate in programs under title IV of the Higher Education Act of 1965.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Higher Education In-  
5 novation Act”.

1 **SEC. 2. ALTERNATIVE AUTHORIZATION SYSTEM.**

2 Part H of title IV of the Higher Education Act of  
3 1965 (20 U.S.C. 1099a et seq.) is amended by adding at  
4 the end the following:

5 **“Subpart 4—Alternative Authorization System**

6 **“SEC. 498C. ALTERNATIVE AUTHORIZATION SYSTEM.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) INNOVATION AUTHORIZER.—The term ‘in-  
9 novation authorizer’ or ‘authorizer’ means an entity  
10 that has been approved by the Secretary to carry out  
11 authorization of eligible entities.

12 “(2) ELIGIBLE ENTITY.—The term ‘eligible en-  
13 tity’ means an institution of higher education or an-  
14 other entity that—

15 “(A) promotes and supports student suc-  
16 cess outcomes and cost-effectiveness in postsec-  
17 ondary education;

18 “(B) provides an educational program—

19 “(i) that leads to a degree or certifi-  
20 cate;

21 “(ii) of course bundles; or

22 “(iii) that leads to an industry-recog-  
23 nized credential that meets the require-  
24 ments for licensing in the relevant field;

1           “(C) agrees to specified outcome-based  
2 oversight and reporting requirements described  
3 in this section;

4           “(D) demonstrates that the entity provides  
5 high-quality education by meeting or exceeding  
6 the minimum thresholds for each of the per-  
7 formance metrics that are required by the inno-  
8 vation authorizer in accordance with subsection  
9 (b) and which are developed in accordance with  
10 subsection (d);

11           “(E) meets the definition of an institution  
12 of higher education under section 101 or 102,  
13 except that the entity need not meet the re-  
14 quirements described in—

15                   “(i) section 101(a)(5);

16                   “(ii) section 102(b)(1)(A)(ii)(II); or

17                   “(iii) 102(b)(1)(D); and

18           “(F) meets the other requirements for par-  
19 ticipation in this title.

20           “(3) TEACH-OUT PLAN.—The term ‘teach-out  
21 plan’ means a written plan that provides for the eq-  
22 uitable treatment of students if an eligible entity  
23 ceases to operate before all students have completed  
24 their program of study, and may include, if required  
25 by the Secretary, an agreement between eligible enti-

1 ties or between an eligible entity and another institu-  
2 tion for such a teach-out plan.

3 “(4) COURSE BUNDLE.—The term ‘course bun-  
4 dle’ means a series of courses, or the equivalent,  
5 that lead to—

6 “(A) proficiency in a set of marketable  
7 skills or competencies; or

8 “(B) an industry-recognized credential that  
9 meets the requirements for licensing in the rel-  
10 evant field.

11 “(5) COMPLETION.—The term ‘completion’  
12 means—

13 “(A) in the case of a course bundle—

14 “(i) completion of a series of  
15 courses—

16 “(I) that lead to proficiency in a  
17 set of marketable skills or com-  
18 petencies; or

19 “(II) that result in an industry-  
20 recognized credential that meets the  
21 requirements for licensing in the rel-  
22 evant field; or

23 “(ii) successful completion of a set of  
24 assessments—

1                   “(I) that demonstrate proficiency  
2                   in a set of marketable skills or com-  
3                   petencies; or

4                   “(II) that results in an industry-  
5                   recognized credential that meets the  
6                   requirements for licensing in the rel-  
7                   evant field; and

8                   “(B) in the case of a program leading to  
9                   a certificate or degree, receipt of the certificate  
10                  or degree.

11               “(b) APPROVAL OF INNOVATION AUTHORIZERS.—

12                   “(1) IN GENERAL.—The Secretary shall estab-  
13                  lish a process for approving innovation authorizers  
14                  to carry out the authorization of eligible entities.

15                   “(2) REQUEST FOR APPLICATIONS.—Not later  
16                  than 275 days after the date of enactment of this  
17                  subpart, the Secretary shall publish a request for ap-  
18                  plications from entities that desire to become innova-  
19                  tion authorizers. Accrediting agencies currently rec-  
20                  ognized by the Secretary and entities not currently  
21                  recognized by the Secretary may apply to be ap-  
22                  proved as innovation authorizers.

23                   “(3) APPLICATION REQUIREMENTS.—An entity  
24                  that desires to be approved by the Secretary as an  
25                  innovation authorizer under paragraph (1) shall sub-

1 mit an application to the Secretary that includes the  
2 following information:

3 “(A) Information on the entity’s prior ex-  
4 perience as an authorizer, accreditor, pro-  
5 grammatic accreditor, or industry validator, or  
6 strong evidence and history that demonstrates  
7 the entity is equipped to be a high-quality au-  
8 thorizer.

9 “(B) An explanation of why the entity is  
10 qualified and capable of being an innovation au-  
11 thorizer, accompanied by supporting docu-  
12 mentation.

13 “(C) Evidence that the entity is financially  
14 able to meet the requirements for authorizing  
15 eligible entities, including the requirements  
16 under paragraph (7).

17 “(D) A description of the process that the  
18 entity will use for awarding authorization, and  
19 suspending or revoking an eligible entity’s au-  
20 thorization, including—

21 “(i) the performance metrics the au-  
22 thorizer will use in making determinations  
23 about authorization, which shall meet the  
24 requirements described under subsection  
25 (d);

1           “(ii) the minimum threshold for each  
2           performance metric described in clause (i),  
3           which shall require an eligible entity to  
4           meet or exceed the 60th-percentile student  
5           outcome for each such performance metric  
6           in order to be awarded authorization by  
7           the innovation authorizer;

8           “(iii) any other criteria or metrics  
9           that the entity will use as an innovation  
10          authorizer to award authorization status to  
11          an eligible entity, if applicable; and

12          “(iv) the process for monitoring au-  
13          thorized eligible entities, ensuring that  
14          each eligible entity continues to meet the  
15          criteria for authorization, (including the  
16          threshold for each applicable performance  
17          metric as described in clause (ii)), and for  
18          ensuring the accuracy and validity of data.

19          “(E) A description of the entity’s area of  
20          educational or subject matter focus, if applica-  
21          ble.

22          “(F) The composition or membership of  
23          the entity that seeks to become an innovation  
24          authorizer, and the entity’s relationship or work  
25          with applicable industries and businesses.

1           “(G) A demonstration that the entity  
2           has—

3                   “(i) clear and effective controls to pro-  
4                   tect against conflicts of interest, or the ap-  
5                   pearance of conflicts of interest, between  
6                   the entity that wishes to be an innovation  
7                   authorizer and eligible entities (including  
8                   controls regarding potential conflicts of in-  
9                   terest between board members, commis-  
10                  sioners, evaluation team members, consult-  
11                  ants, administrative staff, and other rep-  
12                  resentatives of the entity that wishes to be  
13                  an authorizer and eligible entities); and

14                   “(ii) requirements to ensure that, as  
15                   an authorizer, the entity, the entity’s staff,  
16                   and entity representatives will be separate  
17                   and independent (as defined in section  
18                   496(b)), both administratively and finan-  
19                   cially, from any eligible entities and will re-  
20                   ceive no benefit, financial or otherwise,  
21                   from authorizing an eligible entity.

22                  “(H) An agreement that the entity will  
23                  make applicable authorization data, documents,  
24                  and determinations publicly available.



1           “(4) DISSEMINATION OF INFORMATION.—For  
2 the purpose of determining minimum thresholds for  
3 performance metrics under paragraph (3)(D)(ii) and  
4 subsection (d)(1)(B), the Secretary shall—

5           “(A) disseminate to innovation authorizers,  
6 on an annual basis, information about 60th-per-  
7 centile student outcomes on the performance  
8 criteria described under subsection (d);

9           “(B) provide such information for students  
10 as a whole and disaggregated by student income  
11 quartile and field of study; and

12           “(C) also provide the information described  
13 in subparagraphs (A) and (B) to an innovation  
14 authorizer or an entity that wishes to apply to  
15 become an innovation authorizer upon request.

16           “(5) LIMITATION, SUSPENSION, OR TERMI-  
17 NATION OF AUTHORIZER APPROVAL.—

18           “(A) NOTICE AND OPPORTUNITY FOR COR-  
19 RECTION.—If the Secretary determines that an  
20 innovation authorizer has failed to apply and ef-  
21 fectively enforce the performance criteria, in-  
22 cluding the minimum thresholds for such cri-  
23 teria, specified in the innovation authorizer’s  
24 application under paragraph (3) in awarding,  
25 monitoring, and revoking authorization status

1 for eligible entities, the Secretary shall provide  
2 notice to the innovation authorizer and give the  
3 innovation authorizer a 6-month period to apply  
4 and enforce the performance criteria and minimum  
5 thresholds described in the innovation authorizer's  
6 application under paragraph (3).

7 “(B) LIMITATION, SUSPENSION, OR TERMINATION.—If, after the 6-month period described in subparagraph (A), the Secretary determines that an innovation authorizer has still  
8 failed to effectively enforce the performance criteria and minimum thresholds specified in that  
9 innovation authorizer's application under paragraph (3), the Secretary shall limit, suspend, or  
10 terminate the recognition of that innovation authorizer.  
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17 “(6) LOSS OF AUTHORIZER APPROVAL.—In the  
18 case of an eligible entity authorized by an innovation  
19 authorizer whose recognition has been limited, suspended, or terminated by the Secretary—  
20

21 “(A) if the eligible entity successfully demonstrates to the Secretary that the eligible entity  
22 meets the performance criteria and minimum  
23 thresholds that such authorizer specified in its  
24 application under paragraph (3), the eligible en-  
25

1           tity shall have 6 months to apply for accredita-  
2           tion by another accrediting agency or authoriza-  
3           tion by another innovation authorizer; or

4           “(B) the eligible entity shall prepare a  
5           teach-out plan that meets the Secretary’s regu-  
6           lations for teach-out plans and shall submit  
7           such plan to the Secretary.

8           “(7) AUTHORIZER RISK SHARING.—Each inno-  
9           vation authorizer shall enter into an agreement with  
10          the Secretary whereby the innovation authorizer  
11          agrees to pay the Secretary an amount equal to not  
12          less than 25 percent of the amount of Federal stu-  
13          dent loans that are held by current and former stu-  
14          dents of any eligible entity authorized by the innova-  
15          tion authorizer under subsection (d) and that are in  
16          default each fiscal year.

17          “(c) ELIGIBILITY FOR FEDERAL PELL GRANT  
18          FUNDING.—Eligible entities that are authorized by an in-  
19          novation authorizer shall be eligible to receive Federal Pell  
20          Grant funding in accordance with subsection (f).

21          “(d) AUTHORIZATION BY AN INNOVATION AUTHOR-  
22          IZER.—

23                  “(1) AUTHORIZATION PROCESS.—

24                          “(A) IN GENERAL.—An innovation author-  
25                          izer may authorize an eligible entity, if—

1 “(i) that eligible entity meets the cri-  
2 teria under subsection (a)(2); and

3 “(ii) in the case of—

4 “(I) an eligible entity that has  
5 not carried out an educational pro-  
6 gram for more than 2 years, the eligi-  
7 ble entity agrees to, and describes a  
8 high-quality, evidence-based plan to,  
9 meet within 2 years the specific per-  
10 formance metrics and minimum  
11 thresholds required by the innovation  
12 authorizer in accordance with sub-  
13 section (b)(3)(D); and

14 “(II) an eligible entity that has  
15 carried out an educational program  
16 for more than 2 years, the eligible en-  
17 tity demonstrates that the eligible en-  
18 tity meets the specific performance  
19 metrics and minimum thresholds re-  
20 quired by the innovation authorizer in  
21 accordance with subsection (b)(3)(D).

22 “(B) PERFORMANCE METRICS.—

23 “(i) IN GENERAL.—In accordance  
24 with subparagraph (C), each innovation  
25 authorizer shall—

1           “(I) use, in order to determine  
2 whether to award authorization to an  
3 eligible entity, not less than—

4           “(aa) 1 performance metric  
5 relating to student learning, as  
6 described in clause (ii);

7           “(bb) the performance met-  
8 ric relating to completion, as de-  
9 scribed in clause (iii); and

10           “(cc) 2 performance metrics  
11 relating to the benefit to the stu-  
12 dent and affordability, as de-  
13 scribed in clause (iv);

14           “(II) establish the minimum  
15 thresholds for each performance met-  
16 ric that the eligible entity must meet  
17 or exceed in order to be authorized by  
18 the authorizer in accordance with sub-  
19 section (b)(3)(D)(ii), ensuring that  
20 each minimum threshold meets or ex-  
21 ceeds the 60th-percentile student out-  
22 come for the performance metric; and

23           “(III) in the determination about  
24 whether an eligible entity meets the  
25 required threshold for authorization

1 for each performance metric, include  
2 data from all students who enroll in  
3 the eligible entity.

4 “(ii) STUDENT LEARNING.—The per-  
5 formance metrics relating to student learn-  
6 ing are the following:

7 “(I) A nationally defined, dem-  
8 onstrated, objective, and verifiable  
9 measure of student learning, including  
10 a measure of the knowledge or skills  
11 gained by the student from the edu-  
12 cational program or institution.

13 “(II) Demonstrated quality based  
14 on an evaluation conducted by an  
15 independent evaluator that uses eval-  
16 uation criteria approved by the What  
17 Works Clearinghouse of the Institute  
18 of Education Sciences and shows sta-  
19 tistically significant increases in stu-  
20 dent learning.

21 “(III) Pass rates and overall  
22 scores on qualifying or licensing  
23 exams.

24 “(iii) COMPLETION.—

1           “(I) IN GENERAL.—The perform-  
2           ance metric relating to completion is  
3           the percentage of all students who  
4           complete the educational program and  
5           each program of study in—

6                   “(aa) 100 percent of the  
7                   normal time for completion of  
8                   each program of study;

9                   “(bb) 150 percent of the  
10                  normal time for completion of  
11                  each program of study; and

12                  “(cc) 200 percent of the  
13                  normal time for completion of  
14                  each program of study.

15           “(II) TRANSFER STUDENTS.—In  
16           determining the percentage under  
17           subclause (I), an eligible entity may  
18           include the students in each program  
19           of study who transfer and successfully  
20           complete a program of study.

21           “(iv) BENEFIT TO STUDENT AND AF-  
22           FORDABILITY.—The performance metrics  
23           relating to benefit to the student and af-  
24           fordability are the following:

1           “(I) Rates of employment or en-  
2           rollment in and completion of grad-  
3           uate or professional school.

4           “(II) Increases in income for stu-  
5           dents.

6           “(III) The cost of tuition and  
7           fees, the net price disaggregated by  
8           income quintile and educational pro-  
9           gram, and the median total loan debt  
10          accrued by students who were enrolled  
11          in the eligible entity.

12          “(IV) Student loan repayment  
13          rates for Federal and private student  
14          loans, if applicable.

15          “(V) Median income of students  
16          who were enrolled in the eligible enti-  
17          ty.

18          “(C) DATA SOURCE.—When an innovation  
19          authorizer uses data about income or employ-  
20          ment, as described in subparagraph (B)(iv), the  
21          following provisions shall apply:

22                 “(i) The innovation authorizer shall  
23                 use wage data gathered in accordance with  
24                 clauses (iii) and (iv) and shall disaggregate  
25                 such data, (except that such



1 disaggregation shall not be required in a  
2 case in which the results would reveal per-  
3 sonally identifiable information about an  
4 individual student) by—

5 “(I) educational program based  
6 on CIP code;

7 “(II) credential received;

8 “(III) noncompleters;

9 “(IV) eligible entity; and

10 “(V) State and region of employ-  
11 ment.

12 “(ii) The innovation authorizer shall  
13 include data for—

14 “(I) 1 year after educational pro-  
15 gram completion;

16 “(II) 3 years after educational  
17 program completion; and

18 “(III) 5 years after educational  
19 program completion.

20 “(iii) Notwithstanding any other pro-  
21 vision of law, the Secretary, in cooperation  
22 with the Commissioner of Social Security,  
23 and each eligible entity whose wage data  
24 will be evaluated in accordance with sub-  
25 paragraph (B)(iv) shall establish a system

1 through which relevant data may be re-  
2 trieved from the Social Security Adminis-  
3 tration, including data on median annual  
4 earnings and employment metrics.

5 “(iv) The Secretary, innovation au-  
6 thorizers, and eligible entities shall not  
7 share personally identifiable information of  
8 a student in carrying out this subpara-  
9 graph, except as necessary to enable indi-  
10 viduals who are employed by the Depart-  
11 ment to meet the reporting requirements  
12 and data dissemination purposes and re-  
13 quirements under this Act.

14 “(D) TRANSPARENCY.—Notwithstanding  
15 the specific performance metrics used by any  
16 specific authorizer, each authorized eligible enti-  
17 ty shall make public and disaggregate informa-  
18 tion on all of the metrics described under sub-  
19 paragraph (B) for the eligible entity as a whole  
20 and for each educational program of the eligible  
21 entity, as applicable.

22 “(2) RENEWING AUTHORIZATION.—An innova-  
23 tion authorizer shall require each eligible entity that  
24 has been authorized by the innovation authorizer to  
25 have the eligible entity’s authorization renewed not

1 later than 2 years after the eligible entity is first au-  
2 thorized, and not later than every 5 years thereafter.

3 “(3) LOSS OF AUTHORIZATION.—

4 “(A) IN GENERAL.—An innovation author-  
5 izer shall remove an eligible entity from author-  
6 ized status if, for 2 consecutive calendar years,  
7 that eligible entity falls below the minimum  
8 threshold for any performance metric required  
9 for authorization by the innovation authorizer  
10 in accordance with the subsection (b)(3)(D).

11 “(B) PETITION TO REGAIN AUTHORIZA-  
12 TION.—An eligible entity that is removed from  
13 authorized status may petition an innovation  
14 authorizer to regain authorization by dem-  
15 onstrating to the innovation authorizer that the  
16 eligible entity is ensuring quality and student  
17 success and has met, and will continue to meet,  
18 the minimum thresholds for each performance  
19 metric required for authorization by the innova-  
20 tion authorizer in accordance with the sub-  
21 section (b)(3)(D).

22 “(4) ACCREDITATION DEEMED.—Authorization  
23 by an innovation authorizer approved by the Sec-  
24 retary under this section shall be deemed recognized  
25 accreditation for purposes of title IV.

1       “(e) ACCREDITATION AND AUTHORIZATION; CHANG-  
2   ING ACCREDITORS OR AUTHORIZERS.—

3               “(1) ACCREDITATION AND AUTHORIZATION.—

4       An eligible entity that otherwise meets the require-  
5       ments for authorization by an innovation authorizer  
6       and the requirements for accreditation by a recog-  
7       nized accrediting agency may hold accreditation and  
8       authorization from both entities.

9               “(2) CHANGING ACCREDITORS OR AUTHOR-  
10       IZERS.—An eligible entity that otherwise meets the  
11       relevant requirements for accreditation or authoriza-  
12       tion may notify the Secretary and change accredita-  
13       tion or authorization status—

14                       “(A) from an innovation authorizer to a  
15                       recognized accrediting agency; or

16                       “(B) from a recognized accrediting agency  
17                       to an innovation authorizer.

18       “(f) ELIGIBILITY FOR FEDERAL PELL GRANT FUND-  
19   ING.—

20               “(1) AUTHORIZER FEDERAL PELL GRANT  
21       FUNDING REQUIREMENTS.—

22                       “(A) AGGREGATE INNOVATION AUTHOR-  
23                       IZER FEDERAL PELL GRANT CAP.—

24                               “(i) INDIVIDUAL AUTHORIZER CAP.—

25                       The Secretary shall determine, in accord-

1           ance with subparagraph (B) for each  
2           award year and for each innovation au-  
3           thorizer, the total maximum amount of  
4           Federal Pell Grant funds that all eligible  
5           entities that are authorized by a given in-  
6           novation authorizer may receive through  
7           tuition and fee payments from enrolled  
8           students who receive a Federal Pell Grant.

9           “(ii) AGGREGATE AUTHORIZER CAP.—

10          The Secretary shall determine each innova-  
11          tion authorizer Federal Pell Grant cap, as  
12          described in clause (i), in a manner that  
13          ensures that the aggregate amount of Fed-  
14          eral Pell Grant funds that all eligible enti-  
15          ties authorized by all innovation author-  
16          izers receive each year does not exceed 0.5  
17          percent of total Federal Pell Grant funding  
18          for the previous award year.

19          “(B) INDIVIDUAL INNOVATION AUTHOR-  
20          IZER FEDERAL PELL GRANT CAP.—The Sec-  
21          retary shall determine each innovation author-  
22          izer’s cap under subparagraph (A)(i) based  
23          on—

1           “(i) the authorizer’s experience and  
2           track record of awarding authorization to  
3           eligible entities; and

4           “(ii) the performance criteria and  
5           minimum thresholds that the authorizer  
6           uses in determining whether to award au-  
7           thorization to eligible entities, as specified  
8           in subsection (b)(3)(D).

9           “(2) ELIGIBLE ENTITY FEDERAL PELL GRANT  
10          FUNDING REQUIREMENTS.—

11           “(A) IN GENERAL.—An eligible entity that  
12           is authorized by an innovation authorizer in ac-  
13           cordance with this section is eligible to receive  
14           Federal Pell Grant funds in accordance with  
15           subparagraphs (B), (C), and (D).

16           “(B) ELIGIBLE ENTITY TOTAL CAP ON  
17           FEDERAL PELL GRANT FUNDING.—Each award  
18           year, an eligible entity described in subpara-  
19           graph (A) will be eligible to receive (through  
20           tuition and fee payments from enrolled stu-  
21           dents) a maximum total amount of Federal Pell  
22           Grant funding that—

23           “(i) shall be determined by the inno-  
24           vation authorizer;

1           “(ii) shall be determined in a manner  
2           so as to ensure that the innovation author-  
3           izer does not exceed the innovation author-  
4           izer’s Federal Pell Grant cap;

5           “(iii) shall be based on the eligible en-  
6           tity’s history and track record of meeting  
7           or exceeding the relevant performance  
8           metrics minimum thresholds; and

9           “(iv) shall not exceed 15 percent of  
10          total Federal Pell Grant funding for eligi-  
11          ble entities authorized by the innovation  
12          authorizer for the previous award year.

13          “(C) FEDERAL PELL GRANT ALLOCA-  
14          TIONS.—

15                 “(i) FULL FEDERAL PELL GRANT.—  
16                 An eligible entity authorized by an innova-  
17                 tion authorizer that provides validated doc-  
18                 umentation from an independent evaluator  
19                 that the eligible entity has met or exceeded  
20                 the minimum thresholds for each of the  
21                 authorizer’s performance metrics for at  
22                 least 5 consecutive years shall be eligible to  
23                 receive up to the full amount of Federal  
24                 Pell Grant funding that each enrolled stu-

1           dent is eligible to receive, subject to the  
2           cap described in subparagraph (B).

3           “(ii) 50-PERCENT REIMBURSEMENT  
4           FEDERAL PELL GRANT.—An eligible entity  
5           authorized by an innovation authorizer  
6           that provides validated documentation  
7           from an independent evaluator that the eli-  
8           gible entity has met or exceeded the min-  
9           imum thresholds for each of the author-  
10          izer’s performance metrics for at least 3  
11          consecutive years but less than 5 consec-  
12          utive years and has been determined by  
13          such authorizer to have a strong evidence  
14          basis for continuing to annually meet such  
15          minimum thresholds for each performance  
16          metric shall be eligible for a pay for per-  
17          formance contract with the following  
18          terms:

19                 “(I) The eligible entity shall be  
20                 eligible to receive up to 50 percent of  
21                 the amount of Federal Pell Grant  
22                 funding that each enrolled student is  
23                 eligible to receive, subject to the cap  
24                 described in subparagraph (B).



1           “(II) The eligible entity shall  
2           provide a bond or matching funds to  
3           pay for the remaining 50 percent of  
4           the amount of Federal Pell Grant  
5           funding that each enrolled student is  
6           otherwise eligible to receive.

7           “(III) The Secretary shall reim-  
8           burse the eligible entity for an amount  
9           equal to the amount that the eligible  
10          entity provided under subclause (II)  
11          for each enrolled student, except that  
12          such amount may not exceed the re-  
13          maining cost of tuition and fees for  
14          each student—

15                 “(aa) for whom the eligible  
16                 entity provided matching funds  
17                 as described in subclause (II);  
18                 and

19                 “(bb) who successfully com-  
20                 pletes the educational program.

21                 “(iii) 75-PERCENT REIMBURSEMENT  
22                 FEDERAL PELL GRANT.—An eligible entity  
23                 authorized by an innovation authorizer  
24                 that provides validated documentation  
25                 from an independent evaluator that the eli-

1           gible entity has met or exceeded the min-  
2           imum thresholds for each of the author-  
3           izer’s performance metrics for at least 1  
4           year but less than 3 consecutive years and  
5           has been determined by such authorizer to  
6           have a strong evidence basis for continuing  
7           to annually meet such minimum thresholds  
8           for each performance metric shall be eligi-  
9           ble for a pay for performance contract with  
10          the following terms:

11                   “(I) The eligible entity shall be  
12                   eligible to receive up to 25 percent of  
13                   the amount of Federal Pell Grant  
14                   funding that each enrolled student is  
15                   eligible to receive, subject to the cap  
16                   described in subparagraph (B).

17                   “(II) The eligible entity shall  
18                   provide—

19                           “(aa) a bond for 25 percent  
20                           of the amount of Federal Pell  
21                           Grant funding that each enrolled  
22                           student is otherwise eligible to re-  
23                           ceive; and

24                           “(bb) a bond or matching  
25                           funds for the remaining 75 per-

1 cent of the amount of Federal  
2 Pell Grant funding that each en-  
3 rolled student is otherwise eligi-  
4 ble to receive.

5 “(III) If the eligible entity meets  
6 the minimum thresholds for each of  
7 the authorizer’s performance metrics  
8 for 2 consecutive years after the date  
9 of the pay for performance contract,  
10 the Secretary shall reimburse the eli-  
11 gible entity for an amount equal to  
12 the amount that the eligible entity  
13 provided under subclause (II)(bb) for  
14 each enrolled student, except that  
15 such amount may not exceed the re-  
16 maining cost of tuition and fees for  
17 each student—

18 “(aa) for whom the eligible  
19 entity provided matching funds  
20 as described in subclause  
21 (II)(bb); and

22 “(bb) who successfully com-  
23 pletes the educational program.

24 “(IV) If the eligible entity fails to  
25 meet the minimum thresholds for each

1 of the authorizer’s performance cri-  
2 teria for 2 consecutive years after the  
3 date of the contract, the eligible entity  
4 shall reimburse the Federal Govern-  
5 ment in an amount equal to the  
6 amount described in subclause (I).

7 “(iv) 100-PERCENT REIMBURSEMENT  
8 FEDERAL PELL GRANT.—An eligible entity  
9 that has no track record of meeting, ex-  
10 ceeding, or failing to meet the minimum  
11 thresholds for each of the authorizer’s per-  
12 formance metrics, and that has been deter-  
13 mined by an innovation authorizer to have  
14 a strong and rigorous evidence base dem-  
15 onstrating an ability to consistently and  
16 annually meet or exceed the minimum  
17 thresholds for each of the performance  
18 metrics of that innovation authorizer shall  
19 be eligible for a pay for performance con-  
20 tract with the following terms:

21 “(I) The eligible entity shall pro-  
22 vide funds equal to 100 percent of the  
23 amount of Federal Pell Grant funding  
24 that each enrolled student is otherwise  
25 eligible to receive.

1                   “(II) If the eligible entity meets  
2                   the minimum thresholds for each of  
3                   the authorizer’s performance metrics  
4                   for 2 consecutive years after the date  
5                   of the pay for performance contract,  
6                   the Secretary shall reimburse the eli-  
7                   gible entity for an amount equal to  
8                   the amount that the eligible entity  
9                   provided under subclause (I) for each  
10                  enrolled student, except that such  
11                  amount may not exceed the remaining  
12                  cost of tuition and fees for each stu-  
13                  dent—

14                               “(aa) for whom the eligible  
15                               entity provided funds as de-  
16                               scribed in subclause (I); and

17                               “(bb) who successfully com-  
18                               pletes the educational program.

19                   “(D) FEDERAL PELL GRANT AMOUNT  
20                   TREATED AS PAYMENT.—Notwithstanding the  
21                   actual amount of Federal Pell Grant funding  
22                   that an eligible entity receives, (which, in ac-  
23                   cordance with subparagraphs (B) and (C), may  
24                   not be the full amount of Federal Pell Grant  
25                   funding that each enrolled student who is eligi-

1           ble for a Federal Pell Grant is eligible to re-  
2           ceive), an eligible entity—

3                   “(i) shall treat each student as having  
4                   paid the total amount of Federal Pell  
5                   Grant funding for which the student is eli-  
6                   gible;

7                   “(ii) shall not charge students addi-  
8                   tional tuition or fees to compensate for any  
9                   amount of Federal Pell Grant funding for  
10                  which the eligible entity—

11                   “(I) must provide a bond or  
12                   matching funds or for which the eligi-  
13                   ble entity otherwise must wait for re-  
14                   imbursement under subparagraph (C);  
15                   or

16                   “(II) may fail to receive due to a  
17                   cap described under subparagraph  
18                   (B); and

19                   “(iii) shall not charge a higher  
20                   amount of tuition or fees to a student who  
21                   is eligible for a Federal Pell Grant.

22                   “(E) RULE OF CONSTRUCTION.—Nothing  
23                   in subparagraph (D) shall be construed as pro-  
24                   hibiting an eligible entity from reducing the  
25                   amount of tuition and fees the eligible entity

1 charges to a student who is eligible for a Fed-  
2 eral Pell Grant based on student need.

3 “(F) STUDENTS EXCEEDING CAP.—An eli-  
4 gible entity may elect to enroll students whose  
5 collective eligibility for Federal Pell Grants  
6 would otherwise result in the eligible entity ex-  
7 ceeding the cap under subparagraph (B) but  
8 such eligible entity shall comply with subpara-  
9 graph (D).

10 “(3) FEDERAL PELL GRANT ELIGIBILITY FOR  
11 STUDENTS.—

12 “(A) IN GENERAL.—A student may receive  
13 a Federal Pell Grant and use funding from  
14 such grant to attend an eligible entity or a pro-  
15 gram of an eligible entity that is authorized by  
16 an innovation authorizer under this subpart if  
17 the student meets the other requirements for  
18 receiving a Federal Pell Grant, as described in  
19 section 401.

20 “(B) ELIGIBILITY PERIOD.—For the pur-  
21 pose of calculating a student’s remaining period  
22 of eligibility for Federal Pell Grant funding  
23 under section 401(c), the Secretary shall con-  
24 sider only Federal Pell Grant funding actually  
25 paid to an eligible entity on behalf of the stu-

1           dent, in accordance with paragraph (2)(B) and  
2           (2)(C).

3           “(g) ACCESS TO TITLE IV FUNDING.—

4           “(1) CONTINUATION OF TITLE IV ELIGI-  
5           BILITY.—An institution of higher education that was  
6           eligible to participate in, and receive funding under,  
7           this title prior to seeking and gaining authorization  
8           under this section may petition the Secretary to con-  
9           tinue to be eligible to receive loans made under this  
10          title if the institution is an eligible entity described  
11          under clause (i) or (ii) of subsection (f)(2)(C).

12          “(2) RECOMMENDATIONS.—Not later than 2  
13          years after the date of enactment of this section, the  
14          Secretary, in consultation with innovation author-  
15          izers, eligible entities, and stakeholders, shall make  
16          recommendations to Congress regarding a process  
17          for providing all eligible entities with access to loans  
18          made under this title.

19          “(h) REPORTS.—

20          “(1) REPORTS FROM AUTHORIZED ELIGIBLE  
21          ENTITIES TO INNOVATION AUTHORIZERS.—Each eli-  
22          gible entity that is authorized by an innovation au-  
23          thorizer shall prepare and submit an annual report  
24          to the innovation authorizer containing such infor-  
25          mation as that innovation authorizer may require.



1           “(2) REPORTS FROM INNOVATION AUTHOR-  
2           IZERS TO THE SECRETARY.—Each innovation au-  
3           thorizer shall prepare and submit an annual report  
4           to the Secretary containing such information as the  
5           Secretary may require.”.

6 **SEC. 3. TERMINATION OF APPROPRIATIONS.**

7           No funds shall be authorized to carry out this Act,  
8           including the amendments made by this Act, 5 years after  
9           the date of enactment of this Act.

10 **SEC. 4. TERMINATION OF AUTHORIZATION.**

11           Subpart 4 of part H of title IV of the Higher Edu-  
12           cation Act of 1965, as added by section 2 of this Act, shall  
13           expire on the date that is 5 years after the date of enact-  
14           ment of this Act.

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