

118TH CONGRESS
1ST SESSION

S. 2629

To amend the Higher Education Act of 1965 to provide for fiscal accountability, to require institutions of higher education to publish information regarding student success, to provide for school accountability for student loans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2023

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

A BILL

To amend the Higher Education Act of 1965 to provide for fiscal accountability, to require institutions of higher education to publish information regarding student success, to provide for school accountability for student loans, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Higher Education Re-
5 form and Opportunity Act”.

TITLE I—FISCAL ACCOUNTABILITY

SEC. 101. SIMPLIFICATION OF FEDERAL STUDENT LOANS.

(a) TERMINATION.—Section 451 of the Higher Education Act of 1965 (20 U.S.C. 1087a) is amended—

(1) in subsection (a), by adding at the end the following: “No sums may be expended after September 30, 2028, with respect to loans under this part for which the first disbursement is after such date, except Federal Direct simplification loans under section 460A.”; and

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

“(d) TERMINATION OF AUTHORITY TO MAKE NEW LOANS.—Notwithstanding subsection (a) or any other provision of law—

“(1) no new loans may be made under this part after September 30, 2028, except Federal Direct simplification loans under section 460A; and

“(2) no funds are authorized to be appropriated, or may be expended, under this Act, or any other Act to make loans under this part for which the first disbursement is after September 30, 2028, except Federal Direct simplification loans under section 460A, or as expressly authorized by an Act of

1 Congress enacted after the date of enactment of the
2 Higher Education Reform and Opportunity Act.

3 “(e) STUDENT ELIGIBILITY BEGINNING WITH
4 AWARD YEAR 2024.—

5 “(1) NEW BORROWERS.—No loan may be made
6 under this part to a new borrower for which the first
7 disbursement is after June 30, 2024, except Federal
8 Direct simplification loans under section 460A.

9 “(2) BORROWERS WITH OUTSTANDING BAL-
10 ANCES.—Subject to paragraph (3), with respect to a
11 borrower who, as of July 1, 2024, has an out-
12 standing balance of principal or interest owing on a
13 loan made under this part that is not a Federal Di-
14 rect simplification loan under section 460A, such
15 borrower may—

16 “(A) in the case of such a loan made to
17 the borrower for enrollment in a program of un-
18 dergraduate education, borrow loans made
19 under this part that are not Federal Direct
20 simplification loans under section 460A for any
21 program of undergraduate education through
22 the close of September 30, 2028;

23 “(B) in the case of such a loan made to
24 the borrower for enrollment in a program of
25 graduate or professional education, borrow

1 loans made under this part that are not Federal
2 Direct simplification loans under section 460A
3 for any program of graduate or professional
4 education through the close of September 30,
5 2028; and

6 “(C) in the case of such a loan made to
7 the borrower on behalf of a dependent student
8 for the student’s enrollment in a program of
9 undergraduate education, borrow loans made
10 under this part that are not Federal Direct
11 simplification loans under section 460A on be-
12 half of such student through the close of Sep-
13 tember 30, 2028.

14 “(3) LOSS OF ELIGIBILITY.—A borrower de-
15 scribed in paragraph (2) who borrows a Federal Di-
16 rect simplification loan made under section 460A for
17 which the first disbursement is made before Sep-
18 tember 30, 2028, shall lose the borrower’s eligibility
19 to borrow a loan under this part that is not a Fed-
20 eral Direct simplification loan under section 460A in
21 accordance with paragraph (2).”.

22 (b) FEDERAL DIRECT SIMPLIFICATION LOANS.—
23 Part D of title IV of the Higher Education Act of 1965
24 (20 U.S.C. 1087a et seq.) is amended by adding at the
25 end the following:

1 **“SEC. 460A. FEDERAL DIRECT SIMPLIFICATION LOANS.**

2 “(a) IN GENERAL.—Beginning on July 1, 2024, ex-
3 cept as provided in section 451(e), the Secretary shall
4 make loans to borrowers under this section. Loans made
5 under this section shall be known as Federal Direct sim-
6 plification loans.

7 “(b) FEDERAL DIRECT SIMPLIFICATION LOANS.—
8 The provisions of this part shall apply with respect to Fed-
9 eral Direct simplification loans, except that Federal Direct
10 simplification loans shall be made in accordance with the
11 following:

12 “(1) The applicable rate of interest on a loan
13 made under this section shall—

14 “(A) in the case of such loans issued to
15 undergraduate students, for loans disbursed
16 during any 12-month period beginning on July
17 1 and ending on June 30, be determined on the
18 preceding June 1 and be equal to the lesser
19 of—

20 “(i) a rate equal to the high yield of
21 the 10-year Treasury note auctioned at the
22 final auction held prior to such June 1
23 plus 2.05 percent; or

24 “(ii) 8.25 percent; and

25 “(B) in the case of such loans issued to
26 graduate or professional students, for loans dis-

1 bursed during any 12-month period beginning
2 on July 1 and ending on June 30, be deter-
3 mined on the preceding June 1 and be equal to
4 the lesser of—

5 “(i) a rate equal to the high yield of
6 the 10-year Treasury note auctioned at the
7 final auction held prior to such June 1
8 plus 3.6 percent; or

9 “(ii) 9.5 percent.

10 “(2) Interest on a loan made under this section
11 shall begin to accrue on the date the loan is dis-
12 bursed.

13 “(3) The maximum—

14 “(A) annual amount of loans under this
15 section a dependent undergraduate student may
16 borrow in any academic year (as defined in sec-
17 tion 481(a)(2)) or its equivalent shall be equal
18 to \$7,500; and

19 “(B) aggregate amount of loans under this
20 section a dependent undergraduate student may
21 borrow shall be equal to \$30,000.

22 “(4) The maximum—

23 “(A) annual amount of loans under this
24 section an independent undergraduate student
25 may borrow in any academic year (as defined in

1 section 481(a)(2)) or its equivalent shall be
2 equal to \$15,000; and

3 “(B) aggregate amount of loans under this
4 section an undergraduate independent student
5 may borrow shall be equal to \$60,000.

6 “(5) The maximum—

7 “(A) annual amount of loans under this
8 section a graduate or professional student may
9 borrow in any academic year (as defined in sec-
10 tion 481(a)(2)) or its equivalent shall be equal
11 to \$18,500; and

12 “(B) aggregate amount of loans under this
13 section a graduate or professional student may
14 borrow shall be equal to \$74,000.

15 “(6) The only length of repayment—

16 “(A) for a loan borrowed by an under-
17 graduate student shall be 15 years; and

18 “(B) for a loan borrowed by a graduate or
19 professional student shall be 25 years.

20 “(7) Repayment on a loan made under this sec-
21 tion shall begin—

22 “(A) after 125 percent of the normal time
23 for completion of the program of study for
24 which the borrower receives the loan under this
25 section; or

1 “(B) if the borrower withdraws from the
2 program of study before the borrower completes
3 the program, 6 months after the date the bor-
4 rower withdraws.

5 “(8) The Secretary shall not repay or cancel
6 any outstanding balance of principal or interest due
7 on a Federal Direct simplification loan as part of a
8 student loan forgiveness program, including such a
9 program under section 455(m) and section 493C.

10 “(c) AUTHORIZATION TO LIMIT LOAN AMOUNTS.—
11 An institution of higher education that is required under
12 State law to enroll all eligible applicants for an academic
13 year may limit the amount of loans under this section that
14 a student may borrow for such academic year to not more
15 than the tuition and fees at such institution for such aca-
16 demic year.

17 “(d) LOAN FEE.—The Secretary shall not charge the
18 borrower of a loan made under this part an origination
19 fee.

20 “(e) REPAYMENT.—A borrower of a loan made under
21 this section may accelerate without penalty repayment of
22 the whole or any part of the loan.”.

23 **SEC. 102. PHASING OUT LOAN FORGIVENESS.**

24 The Higher Education Act of 1965 (20 U.S.C. 1001
25 et seq.) is amended—

1 (1) in section 455—

2 (A) in subsection (d)(1), in the matter pre-
3 ceding subparagraph (A), by inserting “(except
4 a Federal Direct simplification loan)” after
5 “borrower of a loan made under this part”;

6 (B) in subsection (e), by adding at the end
7 the following:

8 “(9) FEDERAL DIRECT SIMPLIFICATION
9 LOANS.—Income contingent repayment shall not be
10 available for a Federal Direct simplification loan.”;
11 and

12 (C) in subsection (m), by adding at the
13 end the following:

14 “(5) ELIMINATION OF LOAN FORGIVENESS.—

15 “(A) IN GENERAL.—Notwithstanding any
16 other provision of this Act and subject to sub-
17 paragraph (B), with respect to any loan made
18 on or after July 1, 2024, the Secretary may not
19 cancel any outstanding balance of principal and
20 interest due on the loan for the borrower of the
21 loan pursuant to this subsection.

22 “(B) LOANS FOR CONTINUING PROGRAM
23 OF STUDY.—In the case of a borrower whose
24 first loan for a program of study is made prior
25 to July 1, 2024, the Secretary may repay or

1 cancel any outstanding balance of principal and
2 interest due on the subsequent loans for that
3 borrower for the same program of study pursu-
4 ant to this subsection for—

5 “(i) loans made during the time it
6 takes to complete that program of study;

7 or

8 “(ii) loans made before July 1, 2028;
9 whichever occurs earlier.”; and

10 (2) in section 493C, by adding at the end the
11 following:

12 “(f) ELIMINATION OF LOAN FORGIVENESS.—

13 “(1) IN GENERAL.—Notwithstanding any other
14 provision of this Act and subject to paragraph (2),
15 with respect to any loan made on or after July 1,
16 2024, the Secretary may not repay or cancel any
17 outstanding balance of principal and interest due on
18 the loan for the borrower of the loan pursuant to
19 this section.

20 “(2) LOANS FOR CONTINUING PROGRAM OF
21 STUDY.—In the case of a borrower whose first loan
22 for a program of study is made prior to July 1,
23 2024, the Secretary may repay or cancel any out-
24 standing balance of principal and interest due on the

1 subsequent loans for that borrower for the same pro-
 2 gram of study pursuant to this section for—

3 “(A) loans made during the time it takes
 4 to complete that program of study; or

5 “(B) loans made before July 1, 2028;
 6 whichever occurs earlier.”.

7 **TITLE II—ACCREDITATION** 8 **REFORM**

9 **SEC. 201. ACCREDITATION REFORM.**

10 (a) DEFINITION OF INSTITUTION OF HIGHER EDU-
 11 CATION.—Section 102(a)(1) of the Higher Education Act
 12 of 1965 (20 U.S.C. 1002(a)(1)) is amended—

13 (1) by redesignating subparagraphs (B) and
 14 (C) as subparagraphs (C) and (D), respectively; and

15 (2) by inserting after subparagraph (A) the fol-
 16 lowing:

17 “(B) if accredited by an authorized accred-
 18 itation authority in a State that has an alter-
 19 native accreditation agreement with the Sec-
 20 retary, as described in section 498C—

21 “(i) an institution that provides post-
 22 secondary education;

23 “(ii) a postsecondary apprenticeship
 24 program; or

1 “(iii) a postsecondary education
2 course or program provided by an institu-
3 tion of postsecondary education, a non-
4 profit organization, or a for-profit organi-
5 zation or business;”.

6 (b) STATE ALTERNATIVE ACCREDITATION.—Part H
7 of title IV of the Higher Education Act of 1965 (20 U.S.C.
8 1099a et seq.) is amended by adding at the end the fol-
9 lowing:

10 **“Subpart 4—State Alternative Accreditation**

11 **“SEC. 498C. STATE ALTERNATIVE ACCREDITATION.**

12 “(a) IN GENERAL.—Notwithstanding any other pro-
13 vision of law, a State may establish an alternative accredi-
14 tation system for the purpose of establishing institutions
15 that provide postsecondary education and postsecondary
16 education courses or programs as eligible for funding
17 under title IV if the State submits a plan to the Secretary
18 for the establishment of the alternative accreditation sys-
19 tem. Such institutions, courses, or programs may in-
20 clude—

21 “(1) institutions that provide postsecondary
22 education that culminates in a certification, creden-
23 tial, or degree;

1 “(2) postsecondary apprenticeship programs
2 that culminate in a certification, credential, or de-
3 gree;

4 “(3) any other postsecondary education course
5 or program offered at an institution of postsec-
6 ondary education, a nonprofit organization, or a for-
7 profit organization or business, that culminates in a
8 certification, credential, or degree; and

9 “(4) any of the entities described in paragraphs
10 (1) through (3) that do not award a postsecondary
11 certification, credential, or degree, provided that
12 such entity provides credit that will be accepted to-
13 ward a postsecondary certification, credential, or de-
14 gree at one or more of the entities described in para-
15 graphs (1) through (3).

16 “(b) ALTERNATIVE ACCREDITATION NOTIFICA-
17 TION.—The alternative accreditation plan described in
18 subsection (a) shall include the following:

19 “(1) The State’s plan for designating one or
20 more authorized accrediting entities within the
21 State, such as the State Department of Education,
22 another State agency, an industry-specific accred-
23 iting agency, or another entity, and an explanation
24 of the process through which the State will select
25 such authorized accrediting entities.

1 “(2) The standards or criteria that an institu-
2 tion that provides postsecondary education and a
3 postsecondary education course or program must
4 meet in order to—

5 “(A) receive an initial accreditation as part
6 of the alternative accreditation system; and

7 “(B) maintain such accreditation.

8 “(3) A description of the appeals process
9 through which an institution that provides postsec-
10 ondary education or a postsecondary education
11 course or program may appeal to an authorized ac-
12 crediting entity if such institution, course, or pro-
13 gram is denied accreditation under the State alter-
14 native accreditation system.

15 “(4) Any State policy regarding public accessi-
16 bility to certain information relating to institutions
17 that provide postsecondary education and postsec-
18 ondary education courses and programs accredited
19 under the State alternative accreditation system, in-
20 cluding—

21 “(A) the information described in sub-
22 section (e)(1); and

23 “(B) information about the rates of job
24 placement for individuals that have graduated
25 from an institution or completed a course or

1 program that is accredited under the State al-
2 ternative accreditation system, if available.

3 “(5) An assurance by the State that under the
4 State alternative accreditation system, only institu-
5 tions that provide postsecondary education and post-
6 secondary education courses or programs that pro-
7 vide a postsecondary certification, credential, or de-
8 gree, or credits toward a postsecondary certification,
9 credential, or degree (as defined by the State in ac-
10 cordance with paragraph (6)) will be accredited.

11 “(6) The State’s definition of a postsecondary
12 certification, credential, or degree, as such term ap-
13 plies to the requirement described in paragraph (5).

14 “(7) A description of the agreements that the
15 State will enter into with institutions that provide
16 postsecondary education and postsecondary edu-
17 cation courses or programs that are accredited
18 under the alternative accreditation system for pur-
19 poses of accreditation regarding requirements for
20 learning outcomes or labor market outcomes, in lieu
21 of the requirements described under section
22 496(a)(5).

23 “(8) A description of the agreements that the
24 State will enter into with institutions that provide
25 postsecondary education and postsecondary edu-

1 cation courses or programs that are accredited
2 under the alternative accreditation system for pur-
3 poses of accreditation regarding requirements for in-
4 structional time, in lieu of the requirements de-
5 scribed under section 481(a)(2).

6 “(9) A description of the agreements that the
7 State will enter into with institutions that provide
8 postsecondary education and postsecondary edu-
9 cation courses or programs that are accredited
10 under the alternative accreditation system regarding
11 requirements for credit hours or clock hours, or
12 other measures of student learning, in lieu of the re-
13 quirements described under section 481(b).

14 “(c) REVIEW AND APPROVAL.—Not later than 30
15 days after the Secretary receives a plan from a State re-
16 garding an alternative accreditation system, the Secretary
17 shall submit to the State and Congress, and make publicly
18 available, a response to the State’s plan. The Secretary
19 shall approve the plan and allow the State to establish the
20 alternative accreditation system if the plan meets the re-
21 quirements described in subsection (b).

22 “(d) TIME LIMIT.—Each plan approved under sub-
23 section (c) shall allow a State to carry out an alternative
24 accreditation system in the State for a period of 5 years.

1 “(e) REPORTING REQUIREMENTS.—States that es-
2 tablish an alternative accreditation system shall submit a
3 report to the Secretary every 3 years following the imple-
4 mentation of the alternative accreditation system. The re-
5 port shall include—

6 “(1) in the case of a postsecondary education
7 course or program that is accredited through the
8 State alternative accreditation system—

9 “(A) the number and percentage of stu-
10 dents who successfully complete each such post-
11 secondary education course or program; and

12 “(B) for postsecondary education courses
13 or programs that lead to a certification, creden-
14 tial, or degree, the number of students in such
15 course or program;

16 “(2) in the case of an institution that provides
17 postsecondary education that is accredited through
18 the State alternative accreditation system—

19 “(A) the number and percentage of stu-
20 dents who successfully obtain a postsecondary
21 certification, credential, or degree from such in-
22 stitution; and

23 “(B) the number and percentage of stu-
24 dents who do not successfully obtain a postsec-
25 ondary certification, credential, or degree from

1 such institution but do obtain credit from such
2 institution toward a postsecondary degree, cre-
3 dential, or certification; and

4 “(3) a description of any requirements for
5 third-party verification of information contained in
6 the report.”.

7 (c) TITLE IV ELIGIBILITY REQUIREMENTS.—Part G
8 of title IV of the Higher Education Act of 1965 (20 U.S.C.
9 1088 et seq.) is amended by adding at the end the fol-
10 lowing:

11 **“SEC. 494A. STATE ACCREDITED INSTITUTIONS, PRO-**
12 **GRAMS, OR COURSES.**

13 “Notwithstanding any other provision of law, an in-
14 stitution, program, or course that is eligible for funds
15 under this title in accordance with section 102(a)(1)(B)
16 and meets the requirements of section 498C—

17 “(1) shall not be required to meet the require-
18 ments of section 496; and

19 “(2) shall not be required to meet the require-
20 ments described in subsections (a)(2) and (b) of sec-
21 tion 481.”.

1 **TITLE III—TRANSPARENCY IN**
 2 **HIGHER EDUCATION**

3 **SEC. 301. TIME FOR TRANSPARENCY IN HIGHER EDU-**
 4 **CATION.**

5 (a) IN GENERAL.—Title IV of the Higher Education
 6 Act of 1965 (20 U.S.C. 1070 et seq.) is amended—

7 (1) in section 487(a), by adding at the end the
 8 following:

9 “(30) The institution will publish information
 10 in compliance with section 494B.”; and

11 (2) in part G, by adding at the end the fol-
 12 lowing:

13 **“SEC. 494B. INSTITUTIONAL PUBLICATION OF INFORMA-**
 14 **TION.**

15 “(a) PUBLICATION OF INFORMATION.—

16 “(1) IN GENERAL.—Each institution of higher
 17 education participating in a program under this title
 18 shall publish on the institution’s website and in an
 19 alternative format, on an annual basis, the informa-
 20 tion described in paragraphs (2) and (3). To the ex-
 21 tent that such data is available, an institution may
 22 use data that the institution is already collecting in
 23 accordance with other Federal requirements.

24 “(2) INFORMATION.—Each institution of higher
 25 education described in paragraph (1) shall publish,

1 with respect to the institution as a whole and with
2 respect to each program of study offered by the in-
3 stitution, the following information for the most re-
4 cent fiscal year for which the information is avail-
5 able, to the extent the information is available:

6 “(A) For each of the following, the per-
7 centage and number of students enrolled at the
8 institution or in the program of study, as appli-
9 cable, who receive the following:

10 “(i) Federal grant aid, including Fed-
11 eral Pell Grants under subpart 1 of part
12 A, Federal Supplemental Educational Op-
13 portunity Grants under subpart 3 of part
14 A, or any other Federal postsecondary edu-
15 cation grant aid or subsidy.

16 “(ii) Federal student loans, including
17 Federal loans under part D.

18 “(iii) State grant aid.

19 “(iv) Institutional grants.

20 “(v) A student loan from a State.

21 “(B) Student body enrollment status, in-
22 cluding as a—

23 “(i) first-time, full-time student;

24 “(ii) first-time, part-time student;

1 “(iii) non-first-time, full-time student;

2 and

3 “(iv) non-first-time, part-time student.

4 “(C) Information about students that in-
5 cludes the following:

6 “(i) The percentage of students who
7 do not complete the program of study the
8 student initially started upon enrollment.

9 “(ii) The percentage of students who
10 transfer.

11 “(iii) The percentage of students who
12 complete the program of study the student
13 initially started upon enrollment.

14 “(iv) The average length of time for a
15 student to complete the program of study.

16 “(v) The percentage of students who
17 continue on to higher levels of education.

18 “(vi) The percentage of former stu-
19 dents who received financial aid who are
20 employed at 2, 4, and 6 years after grad-
21 uating, disaggregated by program of study.

22 “(vii) The median earnings of former
23 students who earned a degree or credential
24 and received financial aid on the date that
25 is 5, 10, and 15 years after the date the

1 students first enrolled in a program of
2 study at the institution, disaggregated by
3 program of study.

4 “(viii) The median earnings of former
5 students who received financial aid on the
6 date that is 5, 10, and 15 years after the
7 date the students first enrolled in a pro-
8 gram of study at the institution,
9 disaggregated by program of study.

10 “(3) PUBLICATION OF DEFAULT AND NON-RE-
11 PAYMENT RATES.—In addition to the information
12 described in paragraph (2), each institution of high-
13 er education described in paragraph (1) shall pub-
14 lish, with respect to the institution as a whole and
15 with respect to each program of study offered by the
16 institution, the following information for the most
17 recent fiscal year for which the information is avail-
18 able:

19 “(A) The average amount of total Federal
20 student loan debt accrued upon graduation.

21 “(B) The average amount of total Federal
22 student loan debt accrued by students who
23 leave the institution without having graduated.

24 “(C) Federal student loan default rate.

1 “(D) Federal student loan non-repayment
2 rate.

3 “(E) Default and non-repayment rate, in-
4 cluding as a—

5 “(i) first-time, full-time student;

6 “(ii) first-time, part-time student;

7 “(iii) non-first-time, full-time student;

8 and

9 “(iv) non-first-time, part-time student.

10 “(F) Default and non-repayment rate, of—

11 “(i) students who complete a program
12 of study;

13 “(ii) students who transfer; and

14 “(iii) students who do not complete a
15 program of study.

16 “(b) PRIVACY.—

17 “(1) COMPLIANCE WITH FERPA.—In carrying
18 out this section, an institution of higher education
19 and any personnel of the institution shall not share
20 any personally identifiable information and shall act
21 in accordance with section 444 of the General Edu-
22 cation Provisions Act (20 U.S.C. 1232g, commonly
23 known as the ‘Family Educational Rights and Pri-
24 vacy Act of 1974’).

1 “(2) PROHIBITION ON USE OF INFORMATION.—
2 Information published pursuant to this section shall
3 not be used by a Federal employee, agency, or offi-
4 cer, or an institution of higher education to take ac-
5 tion against an individual.

6 “(3) PENALTIES.—The Secretary shall establish
7 penalties for a violation of paragraph (1) or (2) that
8 includes both a monetary fine and up to 5 years in
9 prison.

10 “(c) RULE OF CONSTRUCTION.—Nothing in this sec-
11 tion shall be construed to authorize or permit the Sec-
12 retary or any employee or contractor of the Department
13 to mandate, direct, or control the selection of practices or
14 curriculum by an institution of higher education.”.

15 (b) GAO REPORT.—

16 (1) STUDY.—The Comptroller General of the
17 United States shall conduct a study that compiles all
18 the institutional publication of information pursuant
19 to section 494B of the Higher Education Act of
20 1965, as added by subsection (a) of this section.

21 (2) REPORT.—Not later than October 1 of the
22 fourth fiscal year after the date of enactment of this
23 Act, the Comptroller General of the United States
24 shall submit a report containing the results of the

1 study under paragraph (1) to the appropriate com-
2 mittees of Congress.

3 **TITLE IV—SCHOOL ACCOUNT-**
4 **ABILITY FOR STUDENT**
5 **LOANS**

6 **SEC. 401. SCHOOL ACCOUNTABILITY FOR STUDENT LOANS.**

7 (a) **DEFAULT RATE FINE.**—Section 487 of the High-
8 er Education Act of 1965 (20 U.S.C. 1094), as amended
9 by section 201, is further amended—

10 (1) in subsection (a), by adding at the end the
11 following:

12 “(31) The institution will pay a default rate
13 fine that is determined pursuant to subsection (k).”;
14 and

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

16 “(k) **DEFAULT RATE FINE.**—

17 “(1) **IN GENERAL.**—Each institution shall pay
18 to the Secretary an annual default rate fine in ac-
19 cordance with this subsection in an amount deter-
20 mined under paragraph (2).

21 “(2) **FINE.**—

22 “(A) **IN GENERAL.**—Each institution shall
23 pay a default rate fine for a fiscal year in an
24 amount that is equal to the applicable percent-
25 age of outstanding loans.

1 “(B) APPLICABLE PERCENTAGE.—In this
2 paragraph the term ‘applicable percentage’
3 means a percentage equal to—

4 “(i) 15 percent; minus

5 “(ii) the average rate of total unem-
6 ployment in the United States, as deter-
7 mined by the Secretary of Labor.

8 “(C) OUTSTANDING LOANS.—In this para-
9 graph the term ‘outstanding loans’ means the
10 total amount of loans issued to students for at-
11 tendance at the institution, for which regular
12 on-time payments are not being made.

13 “(D) REGULAR ON-TIME PAYMENTS.—In
14 this paragraph the term ‘regular on-time pay-
15 ments’ means payments that are, at a min-
16 imum, equal to the fixed monthly amount nec-
17 essary to pay off the total amount of Federal
18 student loans of the borrower within the allot-
19 ted repayment time based on the borrower’s re-
20 payment plan.

21 “(3) CREDIT FOR CERTAIN INSTITUTIONS.—
22 Each institution shall receive a \$400 credit for a fis-
23 cal year for each graduate of the institution who re-
24 ceived a Federal Pell Grant while enrolled at the in-
25 stitution during such fiscal year.

1 “(4) FLEXIBILITY IN COUNSEL AND ADVICE.—
2 Notwithstanding any other provision of the Act, the
3 Secretary shall grant institutions of higher education
4 flexibility under this Act to counsel and advise stu-
5 dents on Federal financial aid, including granting
6 flexibility for institutions to award less than the
7 maximum amount of Federal student aid for which
8 an individual is eligible if the cost of tuition, room,
9 and board at the institution is less than such max-
10 imum amount.”.

11 (b) FLEXIBILITY IN COUNSELING AND ADVICE.—
12 Section 485(l) of the Higher Education Act of 1965 (20
13 U.S.C. 1092(l)) is amended by adding at the end the fol-
14 lowing:

15 “(3) FLEXIBILITY IN COUNSELING AND AD-
16 VICE.—In addition to the entrance counseling under
17 paragraph (1), an eligible institution may require
18 any borrower, at or prior to the time of a disburse-
19 ment to the borrower of a loan made under part D,
20 to receive the information described in paragraph
21 (2) with respect to such loan, or any other financial
22 counseling, including financial literacy counseling.”.

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