

115TH CONGRESS
1ST SESSION

S. 2228

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

IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2017

Mr. LEE 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 accreditation reform, to require institutions of higher education to publish information regarding student success, to provide for fiscal accountability, and to provide for school accountability for student loans.

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 of 2017”.

1 **TITLE I—ACCREDITATION**
2 **REFORM**

3 **SEC. 101. ACCREDITATION REFORM.**

4 (a) DEFINITION OF INSTITUTION OF HIGHER EDU-
5 CATION.—Section 102(a) of the Higher Education Act of
6 1965 (20 U.S.C. 1002(a)) is amended—

7 (1) by redesignating paragraphs (5) and (6) as
8 paragraphs (6) and (7), respectively;

9 (2) in paragraph (1), in the matter preceding
10 subparagraph (A), by striking “Subject to para-
11 graphs (2) through (4)” and inserting “Subject to
12 paragraphs (2) through (5)”;

13 (3) in paragraph (1)—

14 (A) by redesignating subparagraphs (B)
15 and (C) as subparagraphs (C) and (D), respec-
16 tively; and

17 (B) by inserting after subparagraph (A)
18 the following:

19 “(B) if accredited by an authorized accred-
20 itation authority in a State that has an alter-
21 native accreditation agreement with the Sec-
22 retary, as described in paragraph (5)—

23 “(i) an institution that provides post-
24 secondary education;

1 “(ii) a postsecondary apprenticeship
2 program; or

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

8 (4) by inserting after paragraph (4), the fol-
9 lowing:

10 “(5) STATE ALTERNATIVE ACCREDITATION.—

11 “(A) IN GENERAL.—Notwithstanding any
12 other provision of law, a State may establish an
13 alternative accreditation system for the purpose
14 of establishing institutions that provide postsec-
15 ondary education and postsecondary education
16 courses or programs as eligible for funding
17 under title IV if the State enters into an agree-
18 ment with the Secretary for the establishment
19 of the alternative accreditation system. Such in-
20 stitutions, courses, or programs may include—

21 “(i) institutions that provide postsec-
22 ondary education;

23 “(ii) postsecondary apprenticeship
24 programs;

1 “(iii) any other postsecondary edu-
2 cation course or program offered at an in-
3 stitution of postsecondary education, a
4 nonprofit organization, or a for-profit orga-
5 nization or business; and

6 “(iv) any of the entities described in
7 clauses (i) through (iii) that do not award
8 a postsecondary certification, credential, or
9 degree, provided that such entity provides
10 credit that will apply toward a postsec-
11 ondary certification, credential, or degree.

12 “(B) ALTERNATIVE ACCREDITATION
13 AGREEMENT.—The alternative accreditation
14 agreement described in subparagraph (A) shall
15 include the following:

16 “(i) The designation of one or more
17 authorized accrediting entities within the
18 State, such as the State Department of
19 Education, another State agency, an indus-
20 try-specific accrediting agency, or another
21 entity, and an explanation of the process
22 through which the State will select such
23 authorized accrediting entities.

24 “(ii) The standards or criteria that an
25 institution that provides postsecondary

1 education and a postsecondary education
2 course or program must meet in order to—

3 “(I) receive an initial accredita-
4 tion as part of the alternative accredi-
5 tation system; and

6 “(II) maintain such accredita-
7 tion.

8 “(iii) A description of the appeals
9 process through which an institution that
10 provides postsecondary education and a
11 postsecondary education course or program
12 may appeal to an authorized accrediting
13 entity if such institution, course, or pro-
14 gram is denied accreditation under the
15 State alternative accreditation system.

16 “(iv) Whether credit received from a
17 postsecondary education course or program
18 that is accredited as part of the alternative
19 accreditation system is transferable—

20 “(I) to other courses or programs
21 accredited as part of an alternative
22 accreditation system; or

23 “(II) to other postsecondary cer-
24 tification, credential, or degree
25 courses or programs at an educational

1 institution that is eligible to partici-
2 pate in a program under title IV but
3 is not accredited as part of an alter-
4 native accreditation system.

5 “(v) The Secretary’s reporting re-
6 quirements for the State regarding the
7 State alternative accreditation system, in-
8 cluding—

9 “(I) the contents of reports that
10 must be submitted to the Secretary,
11 which may include information such
12 as—

13 “(aa) in the case of a post-
14 secondary education course or
15 program that is accredited
16 through the State alternative ac-
17 creditation system—

18 “(AA) the number and
19 percentage of students who
20 successfully complete each
21 such postsecondary edu-
22 cation course or program;
23 and

24 “(BB) the number and
25 percentage of students who

1 successfully obtain a post-
2 secondary certification, cre-
3 dential, or degree using
4 credit obtained from each
5 such postsecondary edu-
6 cation course or program;
7 and

8 “(bb) in the case of an insti-
9 tution that provides postsec-
10 ondary education that is accred-
11 ited through the State alternative
12 accreditation system—

13 “(AA) the number and
14 percentage of students who
15 successfully obtain a post-
16 secondary certification, cre-
17 dential, or degree from such
18 institution; and

19 “(BB) the number and
20 percentage of students who
21 do not successfully obtain a
22 postsecondary certification,
23 credential, or degree from
24 such institution but do ob-
25 tain credit from such insti-

1 tution toward a postsec-
2 ondary degree, credential, or
3 certification;

4 “(II) the frequency with which
5 such reports must be submitted to the
6 Secretary; and

7 “(III) any requirements for third
8 party verification of information con-
9 tained in such reports.

10 “(vi) The State policy regarding pub-
11 lic accessibility to certain information re-
12 lating to institutions that provide postsec-
13 ondary education and postsecondary edu-
14 cation courses and programs accredited
15 under the State alternative accreditation
16 system, including—

17 “(I) the information described in
18 clause (v)(I); and

19 “(II) information about the rates
20 of job placement for individuals that
21 have graduated from an institution or
22 completed a course or program that is
23 accredited under the State alternative
24 accreditation system, if available.

1 “(vii) An assurance by the State that
2 under the State alternative accreditation
3 system, only institutions that provide post-
4 secondary education and postsecondary
5 education courses or programs that provide
6 credits toward a postsecondary certifi-
7 cation, credential, or degree (as defined by
8 the State in accordance with clause (viii))
9 will be accredited.

10 “(viii) The State’s definition of a
11 postsecondary certification, credential, or
12 degree, as such term applies to the require-
13 ment described in clause (vii).

14 “(ix) A description of the agreements
15 that the State will enter into with institu-
16 tions that provide postsecondary education
17 and postsecondary education courses or
18 programs that are accredited under the al-
19 ternative accreditation system to enable
20 such institutions, courses, or programs to
21 be eligible under a program authorized
22 under title IV, for participation in the di-
23 rect student loan program, and for the
24 origination of loans under part D of title
25 IV, and how such agreements will operate

1 in lieu of the agreements described in sec-
2 tions 487 and 454.

3 “(x) A description of how the State
4 will select institutions that provide postsec-
5 ondary education and postsecondary edu-
6 cation courses or programs that are ac-
7 credited under the alternative accreditation
8 system, in lieu of the selection process de-
9 scribed in section 453, for—

10 “(I) participation in the direct
11 student loan program under part D of
12 title IV; and

13 “(II) approval allowing such in-
14 stitution, program, or course to origi-
15 nate direct loans under part D of title
16 IV.

17 “(xi) A description of how the State
18 will administer title IV funds for institu-
19 tions that provide postsecondary education,
20 postsecondary apprenticeship programs,
21 and postsecondary education courses or
22 programs provided by an institution of
23 postsecondary education, a nonprofit orga-
24 nization, or a for-profit organization or

1 business that are accredited through the
2 alternative accreditation system.

3 “(C) REVIEW AND APPROVAL.—Not later
4 than 30 days after the Secretary receives an ap-
5 plication from a State to enter into an alter-
6 native accreditation agreement, the Secretary
7 shall—

8 “(i) approve the application and enter
9 into the agreement; and

10 “(ii) submit to the State and Con-
11 gress, and make publicly available, a re-
12 sponse to the application.

13 “(D) TIME LIMIT.—Each agreement the
14 Secretary enters into for the establishment of
15 an alternative accreditation system in a State
16 shall be for a period of 10 years.”.

17 (b) TITLE IV ELIGIBILITY REQUIREMENTS.—Part G
18 of title IV of the Higher Education Act of 1965 (20 U.S.C.
19 1088 et seq.) is amended by adding at the end the fol-
20 lowing:

21 **“SEC. 493E. STATE ACCREDITED INSTITUTIONS, PRO-**
22 **GRAMS, OR COURSES.**

23 “Notwithstanding any other provision of law, an in-
24 stitution, program, or course that is eligible for funds
25 under this title in accordance with section 102(a)(1)(B)

1 and meets the requirements of section 102(a)(5) shall not
 2 be required to meet any other requirements of this title.
 3 For purposes of this title, such an institution, program,
 4 or course shall be deemed to be an eligible institution that
 5 meets the requirements of section 487.”.

6 **TITLE II—TRANSPARENCY IN**
 7 **HIGHER EDUCATION**

8 **SEC. 201. TIME FOR TRANSPARENCY IN HIGHER EDU-**
 9 **CATION.**

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

12 (1) in section 487(a), by adding at the end the
 13 following:

14 “(30) The institution will publish information
 15 in compliance with section 493E.”; and

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

18 **“SEC. 493E. INSTITUTIONAL PUBLICATION OF INFORMA-**
 19 **TION.**

20 “(a) PUBLICATION OF INFORMATION.—

21 “(1) IN GENERAL.—Each institution of higher
 22 education participating in a program under this title
 23 shall publish, on an annual basis and in a readily ac-
 24 cessible format (including online and in an alter-

1 native format), the information described in para-
2 graphs (2) and (3).

3 “(2) INFORMATION.—Each institution of higher
4 education described in paragraph (1) shall publish,
5 with respect to the institution as a whole and with
6 respect to each program of study offered by the in-
7 stitution, the following information for the most re-
8 cent fiscal year for which the information is avail-
9 able:

10 “(A) For each of the following, the per-
11 centage and number of students enrolled at the
12 institution or in the program of study, as appli-
13 cable, who receive the following:

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

20 “(ii) Federal student loans, including
21 Federal Direct Stafford Loans, Federal
22 Direct Unsubsidized Stafford Loans, Fed-
23 eral Direct PLUS Loans, and Federal Per-
24 kins Loans.

25 “(iii) State grant aid.

1 “(iv) Institutional grants.

2 “(v) A student loan from a State.

3 “(vi) A student loan from another
4 source.

5 “(B) Student body enrollment status, in-
6 cluding as a—

7 “(i) first-time, full-time student;

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

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

10 and

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

12 “(C) An alumni report that includes the
13 following:

14 “(i) The percentage of students who
15 do not complete the program of study the
16 student initially started upon enrollment.

17 “(ii) The percentage of students who
18 transfer.

19 “(iii) The percentage of students who
20 complete the program of study the student
21 initially started upon enrollment.

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

24 “(v) The percentage of alumni who
25 continue on to higher levels of education.

1 “(vi) The percentage of alumni who
2 are employed, disaggregated by program of
3 study.

4 “(vii) The average salary for alumni,
5 disaggregated by program of study.

6 “(viii) The number and percentage of
7 alumni contacted for such report.

8 “(ix) The response rate of alumni con-
9 tacted for such report.

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—

4 “(A) by a Federal employee, agency, or of-
5 ficer, or an institution of higher education to
6 take action against an individual; and

7 “(B) in legal processes or admitted as evi-
8 dence in any judicial or administrative pro-
9 ceeding.

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

14 “(4) AUDITS.—In carrying out this section, the
15 State in which the institution of higher education is
16 located shall contract with an independent third
17 party to conduct audits of the publication of infor-
18 mation described in subsection (a)(1) to ensure qual-
19 ity, validity, reliability, and compliance with all Fed-
20 eral standards of data quality and individual privacy.

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

1 (b) GAO REPORT.—

2 (1) STUDY.—The Comptroller General of the
3 United States shall conduct a study that compiles all
4 the institutional publication of information pursuant
5 to section 493F of the Higher Education Act of
6 1965.

7 (2) REPORT.—Not later than October 1 of the
8 fourth fiscal year after the date of enactment of this
9 Act, the Comptroller General of the United States
10 shall submit a report containing the results of the
11 study under paragraph (1) to the appropriate com-
12 mittees of Congress.

13 **TITLE III—FISCAL**
14 **ACCOUNTABILITY**

15 **SEC. 301. SIMPLIFICATION OF FEDERAL STUDENT LOANS.**

16 Part D of title IV of the Higher Education Act of
17 1965 (20 U.S.C. 1087a et seq.) is amended by adding at
18 the end the following:

19 **“SEC. 461. FEDERAL DIRECT SIMPLIFICATION LOANS.**

20 **“(a) TERMINATION OF AUTHORITY TO MAKE LOANS**
21 **UNDER THIS PART.—**

22 **“(1) IN GENERAL.—**Subject to paragraph (2)
23 and notwithstanding any other provision of this part,
24 for any period of instruction beginning on or after
25 6 months after the date of enactment of the Higher

1 Education Reform and Opportunity Act of 2017, the
2 Secretary may not make loans under this part ex-
3 cept as provided under this section.

4 “(2) EXCEPTION.—

5 “(A) IN GENERAL.—Paragraph (1) shall
6 not apply to an individual, or on behalf of an
7 individual, who received a loan under this part
8 for any period of instruction before July 1,
9 2017.

10 “(B) SUNSET.—A loan may not be made
11 to an individual, or on behalf of an individual,
12 who received a loan under this part for any pe-
13 riod of instruction before July 1, 2017, under
14 this part, other than as provided under this sec-
15 tion, on or after July 1, 2019.

16 “(b) FEDERAL DIRECT SIMPLIFICATION LOANS.—

17 The Secretary shall make loans to borrowers under this
18 section in accordance with the following:

19 “(1) The applicable rate of interest on a loan
20 made under this section shall, for loans disbursed
21 during any 12-month period beginning on July 1
22 and ending on June 30, be determined on the pre-
23 ceding June 1 and be equal to—

1 “(A) a rate equal to the high yield of the
2 10-year Treasury note auctioned at the final
3 auction held prior to such June 1, plus

4 “(B) 3.6 percent.

5 “(2) Interest on a loan made under this section
6 shall begin to accrue on the date the loan is dis-
7 bursed.

8 “(3) The maximum—

9 “(A) annual amount of loans under this
10 section an undergraduate student may borrow
11 in any academic year (as defined in section
12 481(a)(2)) or its equivalent shall be equal to
13 \$7,500; and

14 “(B) aggregate amount of loans under this
15 section an undergraduate student may borrow
16 shall be equal to \$30,000.

17 “(4) The maximum—

18 “(A) annual amount of loans under this
19 section a graduate or professional student may
20 borrow in any academic year (as defined in sec-
21 tion 481(a)(2)) or its equivalent shall be equal
22 to \$13,500; and

23 “(B) aggregate amount of loans under this
24 section a graduate or professional student may
25 borrow shall be equal to \$40,000.

1 “(5) The length of repayment—

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

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

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

8 “(A) after 125 percent of the normal time
9 for completion of the program of study for
10 which the borrower receives the loan under this
11 section; or

12 “(B) if the borrower withdraws from the
13 program of study before the borrower completes
14 the program, 6 months after the date the bor-
15 rower withdraws.

16 “(c) AUTHORIZATION TO LIMIT LOAN AMOUNTS.—

17 An institution of higher education that is required under
18 State law to enroll all eligible applicants for an academic
19 year may limit the amount of loans under this section that
20 a student may borrow for such academic year to not more
21 than the tuition and fees at such institution for such aca-
22 demic year.

23 “(d) ADDITIONAL CHARGES.—The Secretary may
24 not charge the borrower of a loan made under this section

1 any fee for administrative costs that is not described under
2 this section.

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

6 **SEC. 302. PHASING OUT LOAN FORGIVENESS.**

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

9 (1) in section 455—

10 (A) in subsection (d), by adding at the end
11 the following:

12 “(6) ELIMINATION OF LOAN FORGIVENESS.—
13 Notwithstanding any other provision of this Act,
14 with respect to any loan made on or after 6 months
15 after the date of enactment of the Higher Education
16 Reform and Opportunity Act of 2017, the Secretary
17 may not repay or cancel any outstanding balance of
18 principal and interest due on the loan for the bor-
19 rower of the loan pursuant to this subsection.”;

20 (B) in subsection (e), by adding at the end
21 the following:

22 “(8) ELIMINATION OF LOAN FORGIVENESS.—
23 Notwithstanding any other provision of this Act,
24 with respect to any loan made on or after 6 months
25 after the date of enactment of the Higher Education

1 Reform and Opportunity Act of 2017, the Secretary
2 may not repay or cancel any outstanding balance of
3 principal and interest due on the loan for the bor-
4 rower of the loan pursuant to this subsection.”; and

5 (C) in subsection (m), by adding at the
6 end the following:

7 “(5) ELIMINATION OF LOAN FORGIVENESS.—
8 Notwithstanding any other provision of this Act,
9 with respect to any loan made on or after 6 months
10 after the date of enactment of the Higher Education
11 Reform and Opportunity Act of 2017, the Secretary
12 may not cancel any outstanding balance of principal
13 and interest due on the loan for the borrower of the
14 loan pursuant to this subsection.”; and

15 (2) in section 493C, by adding at the end the
16 following:

17 “(f) ELIMINATION OF LOAN FORGIVENESS.—Not-
18 withstanding any other provision of this Act, with respect
19 to any loan made on or after 6 months after the date of
20 enactment of the Higher Education Reform and Oppor-
21 tunity Act of 2017, the Secretary may not repay or cancel
22 any outstanding balance of principal and interest due on
23 the loan for the borrower of the loan pursuant to this sec-
24 tion.”.

1 **TITLE IV—SCHOOL ACCOUNT-**
 2 **ABILITY FOR STUDENT**
 3 **LOANS**

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

5 Section 487 of the Higher Education Act of 1965 (20
 6 U.S.C. 1094), as amended by section 201, is further
 7 amended—

8 (1) in subsection (a), by adding at the end the
 9 following:

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

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

14 “(k) DEFAULT RATE FINE.—

15 “(1) IN GENERAL.—Each institution described
 16 in paragraph (2) shall pay to the Secretary a default
 17 rate fine in accordance with this subsection.

18 “(2) APPLICABLE INSTITUTIONS.—An institu-
 19 tion shall pay a default rate fine under this sub-
 20 section for a fiscal year based on the cohort default
 21 rate on loans made, insured, or guaranteed under
 22 this title for such fiscal year.

23 “(3) FINE.—

24 “(A) IN GENERAL.—Each institution de-
 25 scribed in paragraph (2) shall pay a default

1 rate fine for a fiscal year that is equal to 10
2 percent of the applicable amount determined
3 under subparagraph (B)(i) for such fiscal year.

4 “(B) APPLICABLE AMOUNT.—

5 “(i) IN GENERAL.—The applicable
6 amount for a fiscal year with respect to an
7 institution shall be an amount equal to the
8 product of the amount of loans made, in-
9 sured, or guaranteed under this title for
10 such fiscal year, and the applicable rate
11 determined in clause (ii). If the applicable
12 rate is equal to or less than zero percent
13 then the applicable amount shall be equal
14 to zero.

15 “(ii) APPLICABLE RATE.—The appli-
16 cable rate for a fiscal year with respect to
17 an institution shall be the rate that is
18 equal to the difference between the default
19 rate on loans made, insured, or guaranteed
20 under this title for such fiscal year and the
21 average rate of total unemployment in the
22 United States for such fiscal year, as de-
23 termined by the Secretary of Labor.

24 “(4) CREDIT FOR CERTAIN INSTITUTIONS.—

25 Each institution that is described in paragraph (2)

1 shall receive a \$400 credit for the fiscal year for
2 each graduate of the institution during such fiscal
3 year who received a Federal Pell Grant while en-
4 rolled at the institution.

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

○