

115TH CONGRESS  
2D SESSION

# S. 2986

To award grants to States to support efforts at institutions of higher education to increase degree attainment, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 4, 2018

Mr. CASEY (for himself, Mr. BOOKER, and Mr. KAINE) 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 award grants to States to support efforts at institutions of higher education to increase degree attainment, 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 “Correctly Recognizing  
5 Educational Achievements To Empower Graduates Act”  
6 or the “CREATE Graduates Act”.

1 **SEC. 2. CREATE GRADUATES.**

2 Title VII of the Higher Education Act of 1965 (20  
3 U.S.C. 1133 et seq.) is amended by inserting after part  
4 B the following:

5 **“PART C—CREATE GRADUATES**

6 **“SEC. 751. PURPOSE.**

7 “The purpose of this part is to award grants to  
8 States to support efforts at institutions of higher edu-  
9 cation or within systems of higher education to increase  
10 postsecondary degree attainment by—

11 “(1) locating, and conferring degrees to, stu-  
12 dents who have accumulated sufficient applicable  
13 postsecondary credits and maintained a sufficient  
14 grade point average to earn an associate’s degree  
15 but did not receive one;

16 “(2) providing outreach to those students who  
17 are within 12 credits of earning an associate’s de-  
18 gree; and

19 “(3) establishing partnerships between 2-year  
20 and 4-year institutions of higher education in States,  
21 in order to strengthen the transition pathways into  
22 4-year institutions of higher education for transfer  
23 students.

24 **“SEC. 752. GRANTS TO INCREASE DEGREE ATTAINMENT.**

25 “(a) DEFINITION OF INSTITUTION OF HIGHER EDU-  
26 CATION.—In this section, the term ‘institution of higher

1 education' has the meaning given the term in section  
2 101(a).

3 “(b) PROGRAM AUTHORIZED.—

4 “(1) IN GENERAL.—From amounts appro-  
5 priated under subsection (j), the Secretary shall  
6 award grants, on a competitive basis, to States to  
7 enable the States to carry out the activities de-  
8 scribed in subsections (e) and (f) in order to support  
9 efforts at institutions of higher education to increase  
10 degree attainment.

11 “(2) PARTNERSHIPS ALLOWED.—A State may  
12 apply for a grant under this section in partnership  
13 with a nonprofit organization. In any such partner-  
14 ship, the State higher education agency or other  
15 State agency described in subsection (c)(1) shall  
16 serve as the fiscal agent for purposes of the grant.

17 “(c) SUBMISSION AND CONTENTS OF APPLICA-  
18 TION.—

19 “(1) IN GENERAL.—The State, acting through  
20 the State higher education agency or other State  
21 agency determined appropriate by the Governor or  
22 chief executive officer of the State, shall submit an  
23 application to the Secretary at such time, in such  
24 manner, and containing such information as the Sec-  
25 retary may require.

1           “(2) CONTENTS.—An application submitted  
2 under paragraph (1) shall include the following:

3           “(A) A description of the State’s capacity  
4 to administer the grant under this section and  
5 report annually to the Secretary on the  
6 progress of the activities and services described  
7 in subsection (e).

8           “(B) A description of how the State will  
9 meet the purposes of the grant program under  
10 this part through outreach and memoranda of  
11 understanding with institutions of higher edu-  
12 cation, including the State’s plan for using  
13 grant funds to meet the requirements of sub-  
14 sections (e) and (g) and, if the State elects to  
15 use grant funds under such subsection to create  
16 strong articulation agreements, subsection  
17 (f)(2).

18           “(C) A description of how the State will  
19 coordinate with appropriate stakeholders, in-  
20 cluding institutions of higher education, data-  
21 sharing agencies within the State, and other  
22 States.

23           “(D) A description of—

24           “(i) the structure that the State has  
25 in place to administer the activities and

1 services described in subsection (e), includ-  
2 ing—

3 “(I) the capacity of the State’s  
4 longitudinal data system to—

5 “(aa) be clean of record du-  
6 plication and ensure alignment of  
7 State and institutional credit  
8 completion records;

9 “(bb) include transfer flags  
10 and course and credit data to  
11 allow the State to run initial de-  
12 gree audits for institutions;

13 “(cc) include all postsec-  
14 ondary educational institutions in  
15 the State, including public, pri-  
16 vate nonprofit, and private for-  
17 profit institutions; and

18 “(dd) have in place mecha-  
19 nisms to share data across insti-  
20 tutions, systems, and States;

21 “(II) the capacity of the agency  
22 governing the State’s longitudinal sys-  
23 tem to respond to data requests accu-  
24 rately and in a timely manner; and

1                   “(III) the State’s plan to protect  
2                   student privacy with respect to data  
3                   in the State longitudinal data system  
4                   and comply with section 444 of the  
5                   General Education Provisions Act  
6                   (commonly referred to as the ‘Family  
7                   Educational Rights and Privacy Act  
8                   of 1974’); or

9                   “(ii) the State’s plan to develop such  
10                  administrative capacity as part of the ac-  
11                  tivities carried out under the grant.

12               “(d) AWARD BASIS AND PRIORITY.—The Secretary  
13 shall award grants under this section to States based on  
14 the quality of the applications submitted under subsection  
15 (c). In awarding grants under this section, the Secretary  
16 shall give priority to applications from States—

17               “(1) that do not have, as of the time of the ap-  
18               plication, statewide policies or statewide initiatives in  
19               place to retroactively award associate’s degrees to  
20               students; or

21               “(2) that have a commitment to initiatives re-  
22               garding the retroactive awarding of associate’s de-  
23               grees that will continue after the period of the grant.

24               “(e) MANDATORY USE OF FUNDS.—

1           “(1) SUBGRANTS.—A State that receives a  
 2           grant under this section shall use not less than 80  
 3           percent of the grant funds provided to award sub-  
 4           grants, on a competitive basis, to institutions of  
 5           higher education or systems of higher education.  
 6           Each institution of higher education or system of  
 7           higher education receiving a subgrant shall carry out  
 8           all of the following activities and services, pursuant  
 9           to the conditions under subsection (g):

10                   “(A) Identify the group of students en-  
 11                   rolled at the institution of higher education on  
 12                   the date of the identification and former stu-  
 13                   dents enrolled at the institution of higher edu-  
 14                   cation, or at the institutions of higher education  
 15                   within the system of higher education, as the  
 16                   case may be, that, based on the data held by  
 17                   the institution or system, meet both of the fol-  
 18                   lowing requirements:

19                           “(i) Each individual was enrolled in  
 20                           not less than 45 postsecondary credit  
 21                           hours (or the minimum required by the  
 22                           State to earn an associate’s degree)—

23                                   “(I) in the case of former stu-  
 24                                   dents enrolled at the institution of  
 25                                   higher education or at the institutions

1 of higher education within the system  
2 of higher education, as the case may  
3 be, at the institution or institutions;  
4 and

5 “(II) in the case of students en-  
6 rolled at the institution of higher edu-  
7 cation or at the institutions of higher  
8 education within the system of higher  
9 education, as the case may be, on the  
10 date of the identification, at another  
11 institution of higher education.

12 “(ii) Each individual has not had any  
13 postsecondary degree or certificate, of any  
14 kind, issued to the student by an institu-  
15 tion of higher education.

16 “(B) Perform a degree audit on each stu-  
17 dent described in subparagraph (A), and iden-  
18 tify each such student as one of the following:

19 “(i) Eligible to obtain an associate’s  
20 degree.

21 “(ii) Eligible to obtain an associate’s  
22 degree upon the completion of 12 or fewer  
23 postsecondary credit hours (or the equiva-  
24 lent).

1                   “(iii) Not eligible under either clause  
2                   (i) or (ii).

3                   “(C) Provide outreach to each student  
4                   identified in subparagraph (B)(i), and award  
5                   the earned associate’s degree to such student,  
6                   unless such student declines through a written  
7                   or oral declaration.

8                   “(D) Provide outreach to each student  
9                   identified in subparagraph (B)(ii) that includes  
10                  information regarding next steps toward degree  
11                  attainment, including financial aid options.

12                  “(2) APPLICATION PROCESS.—An institution of  
13                  higher education or system of higher education de-  
14                  siring a subgrant under this subsection shall submit  
15                  an application to the State at such time, in such  
16                  manner, and containing such information as the  
17                  State may require. Such application shall include a  
18                  written commitment from the institution or system  
19                  that, if the institution or system receives a grant,  
20                  the institution or system will carry out all of the ac-  
21                  tivities described in paragraph (1).

22                  “(3) PRIORITY.—Each State awarding sub-  
23                  grants under this part shall give priority to applica-  
24                  tions from institutions of higher education or sys-  
25                  tems of higher education that—

1           “(A) have up-to-date degree audit software  
2 or systems to increase automation of degree au-  
3 dits and transcript exchange, or a plan to invest  
4 and develop such software or systems;

5           “(B) if such policy is permissible under ap-  
6 plicable accreditation or State standards, use a  
7 policy that awards associate’s degrees to any  
8 candidate identified in paragraph (1)(B)(i) and  
9 provides candidates with a process to opt out of  
10 such award program;

11           “(C) waive nonacademic barriers to grad-  
12 uation, such as an application, swimming test,  
13 library fine, transcript exchange fee, graduation  
14 fee, parking ticket, or any other nominal fee;

15           “(D) waive or amend residency and  
16 residency requirements to prevent earned credits  
17 from expiring, if such action is permissible  
18 under accreditation or State standards;

19           “(E) provide students with tuition waivers,  
20 reduced tuition, or prior learning assessments  
21 for those who need to earn remaining credits;  
22 and

23           “(F) agree that, after the conclusion of the  
24 activities described in paragraph (1) and con-

1 continuing after the end of the grant period, the  
2 institution or system will—

3 “(i) conduct degree audits for all en-  
4 rolled students once the students enroll in  
5 45 postsecondary credit hours; and

6 “(ii) provide information about grad-  
7 uation deadlines to remind students of rel-  
8 evant requirements at least 4 months be-  
9 fore the students graduate and again 1  
10 month before graduation.

11 “(f) PERMISSIVE USE OF FUNDS.—A State receiving  
12 a grant under this section may use—

13 “(1) not more than 15 percent of the total  
14 amount received under this section for administra-  
15 tive purposes relating to the grant under this sec-  
16 tion, including technology needed to carry out the  
17 purposes of this part; and

18 “(2) not more than 5 percent of the total  
19 amount received under this section to create articu-  
20 lation agreements between 2-year and 4-year institu-  
21 tions of higher education, in order to enhance col-  
22 laboration and strengthen the transition pathways  
23 between such institutions for transfer students.

24 “(g) SPECIAL CONDITIONS AND PROHIBITIONS.—

1           “(1) AVAILABILITY TO STUDENTS.—A State,  
2 institution of higher education, or system of higher  
3 education receiving a grant or subgrant, as the case  
4 may be, under this section shall not charge any stu-  
5 dent an additional fee or charge to participate in the  
6 activities or services supported under this section.

7           “(2) PROHIBITED USES.—A State, institution  
8 of higher education, or system of higher education  
9 receiving a grant or subgrant, as the case may be,  
10 under this section shall not use any grant or  
11 subgrant funds for tuition, fees, room and board, or  
12 any other purpose outside the goals of the grant.

13           “(3) FERPA REQUIREMENTS.—Each State, in-  
14 stitution of higher education, or system of higher  
15 education receiving a grant or subgrant, respectively,  
16 under this section that enters into a contract or  
17 other agreement with any outside entity to assist in  
18 carrying out the activities or services under such  
19 grant or subgrant, shall ensure that the outside enti-  
20 ty complies with all requirements of section 444 of  
21 the General Education Provisions Act (commonly re-  
22 ferred to as the ‘Family Educational Rights and Pri-  
23 vacy Act of 1974’) that would apply to the State, in-  
24 stitution, or system.

1           “(4) COORDINATION.—A State receiving a  
2 grant under this section shall ensure the coordina-  
3 tion of the activities and services carried out under  
4 this section with any other activities carried out in  
5 the State that are similar to the goals of this pro-  
6 gram, and with any other entities that support the  
7 existing activities in the State, with the goal of mini-  
8 mizing duplication.

9           “(h) REPORT.—

10           “(1) IN GENERAL.—A State receiving a grant  
11 under this section shall prepare and submit an an-  
12 nual report to the Secretary on the activities and  
13 services carried out under this section, and on the  
14 implementation of such activities and services. The  
15 report shall include, for each institution of higher  
16 education or system of higher education receiving a  
17 subgrant, the following information:

18           “(A) The number of students who were  
19 first identified in the group described in sub-  
20 section (e)(1)(A)(i).

21           “(B) The number of students who were re-  
22 moved from such group because the students  
23 had received a degree elsewhere, in accordance  
24 with subsection (e)(1)(A)(ii).

1           “(C) The number of degree audits per-  
2           formed under subsection (e)(1)(B).

3           “(D) The number of students identified  
4           under subsection (e)(1)(B)(i) as eligible to ob-  
5           tain an associate’s degree.

6           “(E) The number of students identified  
7           under subsection (e)(1)(B)(ii) as eligible to ob-  
8           tain an associate’s degree upon the completion  
9           of 12 or fewer credits.

10          “(F) The number of students identified  
11          under subsection (e)(1)(B)(iii) as ineligible to  
12          obtain an associate’s degree and ineligible to  
13          obtain such a degree upon the completion of 12  
14          or fewer credits.

15          “(G) The number of students awarded an  
16          associate’s degree under subsection (e)(1)(C).

17          “(H) The number of students identified in  
18          subsection (e)(1)(B)(ii) who are returning to an  
19          institution of higher education after receiving  
20          outreach described in subsection (e)(1)(D).

21          “(I) The average amount of credit hours  
22          previously earned by students described in sub-  
23          section (e)(1)(B)(i) when the associate’s degrees  
24          are awarded.

1           “(J) The number of students who received  
2           outreach described in subsection (e)(1)(C) and  
3           who decline to receive the associate’s degree.

4           “(K) The number of students who could  
5           not be located or reached as part of the process.

6           “(L) The reasons why students identified  
7           in subsection (e)(1)(B)(ii) did not return to an  
8           institution of higher education to receive a de-  
9           gree.

10           “(M) Details of any policy changes imple-  
11           mented as a result of implementing this pro-  
12           gram and conducting the required degree au-  
13           dits.

14           “(2) DISAGGREGATION.—The report shall in-  
15           clude the information described in subparagraphs  
16           (A) through (L) of paragraph (1) in the aggregate  
17           and disaggregated by age, gender, race or ethnicity,  
18           status as an individual with a disability, and socio-  
19           economic status (including status as a Federal Pell  
20           Grant recipient).

21           “(i) ENFORCEMENT PROVISIONS.—

22           “(1) RECOVERY OR WITHHOLDING.—The Sec-  
23           retary may, after notice and an opportunity for a  
24           hearing in accordance with chapter 5 of title 5,  
25           United States Code—

1           “(A) withhold funds provided under a  
2 grant or subgrant under this section if a State  
3 or institution of higher education is failing to  
4 comply substantially with the requirements of  
5 this section; or

6           “(B) take actions to recover funds pro-  
7 vided under a grant or subgrant under this sec-  
8 tion, if the State or institution made an unal-  
9 lowable expense, or otherwise failed to discharge  
10 its responsibility to properly account for funds.

11           “(2) USE OF RECOVERED OR UNUSED  
12 FUNDS.—Any funds recovered or withheld under  
13 paragraph (1) shall—

14           “(A) be credited to the appropriations ac-  
15 count from which amounts are available to  
16 make grants or enter cooperative agreements  
17 under this section; and

18           “(B) remain available until expended for  
19 any purpose of that account authorized by law  
20 that relates to the program under this section.

21           “(j) AUTHORIZATION OF APPROPRIATIONS.—There  
22 are authorized to be appropriated to carry out this section  
23 such sums as may be necessary for fiscal year 2019 and  
24 each of the 2 subsequent fiscal years.”.

1 **SEC. 3. RELEASE OF EDUCATION RECORDS TO FACILITATE**  
2 **THE AWARD OF A RECOGNIZED POSTSEC-**  
3 **ONDARY CREDENTIAL.**

4 Section 444(b) of the General Education Provisions  
5 Act (20 U.S.C. 1232g(b)) is amended—

6 (1) in paragraph (1)—

7 (A) in subparagraph (K)(ii), by striking “;  
8 and” and inserting a semicolon; and

9 (B) in subparagraph (L), by striking the  
10 period at the end and inserting “; and” ; and

11 (2) by inserting after subparagraph (L) the fol-  
12 lowing:

13 “(M) an institution of postsecondary education  
14 in which the student was previously enrolled, to  
15 which records of postsecondary coursework and cred-  
16 its are sent for the purpose of applying such  
17 coursework and credits toward completion of a rec-  
18 ognized postsecondary credential (as that term is de-  
19 fined in section 3 of the Workforce Innovation and  
20 Opportunity Act (29 U.S.C. 3102)), upon condition  
21 that the student provides written consent prior to re-  
22 ceiving such credential.”.

○