

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.

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

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 min-
5 imum thresholds described in the innovation au-
6 thorizer’s application under paragraph (3).

7 “(B) LIMITATION, SUSPENSION, OR TERMIN-
8 NATION.—If, after the 6-month period de-
9 scribed in subparagraph (A), the Secretary de-
10 termines that an innovation authorizer has still
11 failed to effectively enforce the performance cri-
12 teria and minimum thresholds specified in that
13 innovation authorizer’s application under para-
14 graph (3), the Secretary shall limit, suspend, or
15 terminate the recognition of that innovation au-
16 thorizer.

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, sus-
20 pended, or terminated by the Secretary—

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

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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