

117TH CONGRESS
2D SESSION

S. 4106

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

APRIL 28, 2022

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 demonstrates pro-
2 ficiency in a set of marketable skills
3 or competencies; 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. Any accrediting agency or associa-
20 tion currently recognized by the Secretary or any en-
21 tity not currently recognized by the Secretary may
22 apply to be approved 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—

13 “(I) monitoring authorized eligi-
14 ble entities, ensuring that each eligible
15 entity continues to meet the criteria
16 for authorization (including the
17 threshold for each applicable perform-
18 ance metric as described in clause
19 (ii)); and

20 “(II) ensuring the accuracy and
21 validity of data.

22 “(E) A description of the entity’s area of
23 educational or subject matter focus, if applica-
24 ble.

1 “(F) The composition or membership of
2 the entity that seeks to become an innovation
3 authorizer, and the entity’s relationship or work
4 with applicable industries and businesses.

5 “(G) A demonstration that the entity
6 has—

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

18 “(ii) requirements to ensure that, as
19 an authorizer, the entity and the staff, and
20 representatives of the entity will be sepa-
21 rate and independent (as defined in section
22 496(b)), both administratively and finan-
23 cially, from any eligible entities and will re-
24 ceive no benefit, financial or otherwise,
25 from authorizing an eligible entity.

1 “(H) An agreement that the entity will
2 make applicable authorization data, documents,
3 and determinations publicly available.

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

8 “(A) disseminate to innovation authorizers,
9 on an annual basis, information about 60th-per-
10 centile student outcomes on the performance
11 criteria described under subsection (d), in the
12 aggregate for all students and disaggregated by
13 student income quartile and field of study; and

14 “(B) provide the information described in
15 subparagraph (A) to an innovation authorizer
16 or an entity that wishes to apply to become an
17 innovation authorizer upon request.

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

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

1 application under paragraph (3) in awarding,
2 monitoring, and revoking authorization status
3 for eligible entities, the Secretary shall provide
4 notice to the innovation authorizer and give the
5 innovation authorizer a 6-month period to apply
6 and enforce the performance criteria and min-
7 imum thresholds described in the innovation au-
8 thorizer’s application under paragraph (3).

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

19 “(6) LOSS OF AUTHORIZER APPROVAL.—In the
20 case of an eligible entity authorized by an innovation
21 authorizer whose recognition has been limited, sus-
22 pended, or terminated by the Secretary—

23 “(A) if the eligible entity successfully dem-
24 onstrates to the Secretary that the eligible enti-
25 ty meets the performance criteria and minimum

1 thresholds that such authorizer specified in its
2 application under paragraph (3), the eligible en-
3 tity shall have 6 months to apply for accredita-
4 tion by another accrediting agency or associa-
5 tion or authorization by another innovation au-
6 thorizer; or

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

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

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

24 “(d) AUTHORIZATION BY AN INNOVATION AUTHOR-
25 IZER.—

1 “(1) AUTHORIZATION PROCESS.—

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

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

6 “(ii) in the case of—

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

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

25 “(B) PERFORMANCE METRICS.—

1 “(i) IN GENERAL.—In accordance
2 with subparagraph (C), each innovation
3 authorizer shall—

4 “(I) use, in order to determine
5 whether to award authorization to an
6 eligible entity, not less than—

7 “(aa) 1 performance metric
8 relating to student learning, as
9 described in clause (ii);

10 “(bb) the performance met-
11 ric relating to completion, as de-
12 scribed in clause (iii); and

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

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

1 “(III) in the determination about
2 whether an eligible entity meets the
3 required threshold for authorization
4 for each performance metric, include
5 data from all students who enroll in
6 the eligible entity.

7 “(ii) STUDENT LEARNING.—The per-
8 formance metrics relating to student learn-
9 ing are the following:

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

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

1 “(III) Pass rates and overall
2 scores on qualifying or licensing ex-
3 aminations.

4 “(iii) COMPLETION.—

5 “(I) IN GENERAL.—The perform-
6 ance metric relating to completion is
7 the percentage of all students who
8 complete the educational program and
9 each program of study in—

10 “(aa) 100 percent of the
11 normal time for completion of
12 each program of study;

13 “(bb) 150 percent of the
14 normal time for completion of
15 each program of study; and

16 “(cc) 200 percent of the
17 normal time for completion of
18 each program of study.

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

1 “(iv) BENEFIT TO STUDENT AND AF-
2 FORDABILITY.—The performance metrics
3 relating to benefit to the student and af-
4 fordability are the following:

5 “(I) Rates of employment or en-
6 rollment in and completion of grad-
7 uate or professional school.

8 “(II) Increases in income for stu-
9 dents.

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

16 “(IV) Student loan repayment
17 rates for Federal and private student
18 loans, if applicable.

19 “(V) Median income of students
20 who were enrolled in the eligible enti-
21 ty.

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

1 “(i) The innovation authorizer shall
2 use wage data gathered in accordance with
3 clauses (iii) and (iv) and shall disaggregate
4 such data (except that such disaggregation
5 shall not be required in a case in which the
6 results would reveal personally identifiable
7 information about an individual student),
8 by—

9 “(I) educational program based
10 on the Classification of Instructional
11 Programs Code developed by the Na-
12 tional Center for Education Statistics;

13 “(II) credential received;

14 “(III) noncompleters;

15 “(IV) eligible entity; and

16 “(V) State and region of employ-
17 ment.

18 “(ii) The innovation authorizer shall
19 include data for—

20 “(I) 1 year after educational pro-
21 gram completion;

22 “(II) 3 years after educational
23 program completion; and

24 “(III) 5 years after educational
25 program completion.

1 “(iii) Notwithstanding any other pro-
2 vision of law, the Secretary, in cooperation
3 with the Commissioner of Social Security,
4 and each eligible entity whose wage data
5 will be evaluated in accordance with sub-
6 paragraph (B)(iv) shall establish a system
7 through which relevant data may be re-
8 trieved from the Social Security Adminis-
9 tration, including data on median annual
10 earnings and employment metrics.

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

20 “(D) TRANSPARENCY.—Notwithstanding
21 the specific performance metrics used by any
22 specific authorizer, each authorized eligible enti-
23 ty shall make public and disaggregate informa-
24 tion on all of the metrics described under sub-
25 paragraph (B) for the eligible entity as a whole

1 and for each educational program of the eligible
2 entity, as applicable.

3 “(2) RENEWING AUTHORIZATION.—An innova-
4 tion authorizer shall require each eligible entity that
5 has been authorized by the innovation authorizer to
6 have the eligible entity’s authorization renewed not
7 later than 2 years after the eligible entity is first au-
8 thorized, and not later than every 5 years thereafter.

9 “(3) LOSS OF AUTHORIZATION.—

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

17 “(B) PETITION TO REGAIN AUTHORIZA-
18 TION.—An eligible entity that is removed from
19 authorized status may petition an innovation
20 authorizer to regain authorization by dem-
21 onstrating to the innovation authorizer that the
22 eligible entity is ensuring quality and student
23 success and has met, and will continue to meet,
24 the minimum thresholds for each performance
25 metric required for authorization by the innova-

1 tion authorizer in accordance with subsection
2 (b)(3)(D).

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

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

9 “(1) ACCREDITATION AND AUTHORIZATION.—
10 An eligible entity that otherwise meets the require-
11 ments for authorization by an innovation authorizer
12 and the requirements for accreditation by a recog-
13 nized accrediting agency or association may hold ac-
14 creditation and authorization from both entities.

15 “(2) CHANGING ACCREDITORS OR AUTHOR-
16 IZERS.—An eligible entity that otherwise meets the
17 relevant requirements for accreditation or authoriza-
18 tion may notify the Secretary and change accredita-
19 tion or authorization status—

20 “(A) from an innovation authorizer to a
21 recognized accrediting agency or association; or

22 “(B) from a recognized accrediting agency
23 or association to an innovation authorizer.

24 “(f) ELIGIBILITY FOR FEDERAL PELL GRANT FUND-
25 ING.—

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

3 “(A) AGGREGATE INNOVATION AUTHOR-
4 IZER FEDERAL PELL GRANT CAP.—

5 “(i) INDIVIDUAL AUTHORIZER CAP.—

6 The Secretary shall determine, in accord-
7 ance with subparagraph (B) for each
8 award year and for each innovation au-
9 thorizer, the total maximum amount of
10 Federal Pell Grant funds that all eligible
11 entities that are authorized by a given in-
12 novation authorizer may receive through
13 tuition and fee payments from enrolled
14 students who receive a Federal Pell Grant.

15 “(ii) AGGREGATE AUTHORIZER CAP.—

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

1 “(B) INDIVIDUAL INNOVATION AUTHOR-
2 IZER FEDERAL PELL GRANT CAP.—The Sec-
3 retary shall determine each innovation author-
4 izer’s cap under subparagraph (A)(i) based
5 on—

6 “(i) the authorizer’s experience and
7 track record of awarding authorization to
8 eligible entities; and

9 “(ii) the performance criteria and
10 minimum thresholds that the authorizer
11 uses in determining whether to award au-
12 thorization to eligible entities, as specified
13 in subsection (b)(3)(D).

14 “(2) ELIGIBLE ENTITY FEDERAL PELL GRANT
15 FUNDING REQUIREMENTS.—

16 “(A) IN GENERAL.—An eligible entity that
17 is authorized by an innovation authorizer in ac-
18 cordance with this section is eligible to receive
19 Federal Pell Grant funds in accordance with
20 subparagraphs (B), (C), and (D).

21 “(B) ELIGIBLE ENTITY TOTAL CAP ON
22 FEDERAL PELL GRANT FUNDING.—Each award
23 year, an eligible entity described in subpara-
24 graph (A) will be eligible to receive (through
25 tuition and fee payments from enrolled stu-

1 dents) a maximum total amount of Federal Pell
2 Grant funding that—

3 “(i) shall be determined by the inno-
4 vation authorizer;

5 “(ii) shall be determined in a manner
6 so as to ensure that the innovation author-
7 izer does not exceed the innovation author-
8 izer’s Federal Pell Grant cap;

9 “(iii) shall be based on the eligible en-
10 tity’s history and track record of meeting
11 or exceeding the relevant performance
12 metrics minimum thresholds; and

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

17 “(C) FEDERAL PELL GRANT ALLOCA-
18 TIONS.—

19 “(i) FULL FEDERAL PELL GRANT.—
20 An eligible entity authorized by an innova-
21 tion authorizer that provides validated doc-
22 umentation from an independent evaluator
23 that the eligible entity has met or exceeded
24 the minimum thresholds for each of the
25 authorizer’s performance metrics for at

1 least 5 consecutive years shall be eligible to
2 receive up to the full amount of Federal
3 Pell Grant funding that each enrolled stu-
4 dent is eligible to receive, subject to the
5 cap described in subparagraph (B).

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

22 “(I) The eligible entity shall be
23 eligible to receive up to 50 percent of
24 the amount of Federal Pell Grant
25 funding that each enrolled student is

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

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

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

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

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

23 “(iii) 75-PERCENT REIMBURSEMENT
24 FEDERAL PELL GRANT.—An eligible entity
25 authorized by an innovation authorizer

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

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

19 “(II) The eligible entity shall
20 provide—

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

1 “(bb) a bond or matching
2 funds for the remaining 75 per-
3 cent of the amount of Federal
4 Pell Grant funding that each en-
5 rolled student is otherwise eligi-
6 ble to receive.

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

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

24 “(bb) who successfully com-
25 pletes the educational program.

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

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

23 “(I) The eligible entity shall pro-
24 vide funds equal to 100 percent of the
25 amount of Federal Pell Grant funding

1 that each enrolled student is otherwise
2 eligible to receive.

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

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

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

21 “(D) FEDERAL PELL GRANT AMOUNT
22 TREATED AS PAYMENT.—Notwithstanding the
23 actual amount of Federal Pell Grant funding
24 that an eligible entity receives (which, in ac-
25 cordance with subparagraphs (B) and (C), may

1 not be the full amount of Federal Pell Grant
2 funding that each enrolled student who is eligi-
3 ble for a Federal Pell Grant is eligible to re-
4 ceive), an eligible entity—

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

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

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

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

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

24 “(E) RULE OF CONSTRUCTION.—Nothing
25 in subparagraph (D) shall be construed as pro-

1 hibiting an eligible entity from reducing the
2 amount of tuition and fees the eligible entity
3 charges to a student who is eligible for a Fed-
4 eral Pell Grant based on student need.

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

12 “(3) FEDERAL PELL GRANT ELIGIBILITY FOR
13 STUDENTS.—

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

22 “(B) ELIGIBILITY PERIOD.—For the pur-
23 pose of calculating a student’s remaining period
24 of eligibility for Federal Pell Grant funding
25 under section 401, the Secretary shall consider

1 only Federal Pell Grant funding actually paid
2 to an eligible entity on behalf of the student, in
3 accordance with subparagraphs (B) and (C) of
4 paragraph (2).

5 “(g) ACCESS TO TITLE IV FUNDING.—

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

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

21 “(h) REPORTS.—

22 “(1) REPORTS FROM AUTHORIZED ELIGIBLE
23 ENTITIES TO INNOVATION AUTHORIZERS.—Each eli-
24 gible entity that is authorized by an innovation au-
25 thorizer shall prepare and submit an annual report

1 to the innovation authorizer containing such infor-
2 mation as that innovation authorizer may require.

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

8 **SEC. 3. TERMINATION OF APPROPRIATIONS.**

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

12 **SEC. 4. TERMINATION OF AUTHORIZATION.**

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

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