

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.

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## 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

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## 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”.

# **TITLE I—ACCREDITATION REFORM**

## **SEC. 101. ACCREDITATION REFORM.**

(a) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—Section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)) is amended—

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

(2) in paragraph (1), in the matter preceding subparagraph (A), by striking “Subject to paragraphs (2) through (4)” and inserting “Subject to paragraphs (2) through (5)”;

(3) in paragraph (1)—

(A) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

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

“(B) if accredited by an authorized accreditation authority in a State that has an alternative accreditation agreement with the Secretary, as described in paragraph (5)—

“(i) an institution that provides post-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.”.

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