II

115TH CONGRESS
1ST SESSION

S. 2228

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

IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2017

Mr. LEE introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Higher Education Reform 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 postsecondary education;

"(ii) a postsecondary apprenticeship program; or

"(iii) a postsecondary education course or program provided by an institution of postsecondary education, a nonprofit organization, or a for-profit organization or business;"; and

(4) by inserting after paragraph (4), the following:

"(5) STATE ALTERNATIVE ACCREDITATION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a State may establish an alternative accreditation system for the purpose of establishing institutions that provide postsecondary education and postsecondary education courses or programs as eligible for funding under title IV if the State enters into an agreement with the Secretary for the establishment of the alternative accreditation system. Such institutions, courses, or programs may include—

"(i) institutions that provide postsecondary education;

"(ii) postsecondary apprenticeship programs;

"(iii) any other postsecondary education course or program offered at an institution of postsecondary education, a nonprofit organization, or a for-profit organization or business; and

"(iv) any of the entities described in clauses (i) through (iii) that do not award a postsecondary certification, credential, or degree, provided that such entity provides credit that will apply toward a postsecondary certification, credential, or degree.

"(B) ALTERNATIVE ACCREDITATION AGREEMENT.—The alternative accreditation agreement described in subparagraph (A) shall include the following:

"(i) The designation of one or more authorized accrediting entities within the State, such as the State Department of Education, another State agency, an industry-specific accrediting agency, or another entity, and an explanation of the process through which the State will select such authorized accrediting entities.

"(ii) The standards or criteria that an institution that provides postsecondary education and a postsecondary education course or program must meet in order to—

"(I) receive an initial accreditation as part of the alternative accreditation system; and

"(II) maintain such accreditation.

"(iii) A description of the appeals process through which an institution that provides postsecondary education and a postsecondary education course or program may appeal to an authorized accrediting entity if such institution, course, or program is denied accreditation under the State alternative accreditation system.

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

"(I) to other courses or programs accredited as part of an alternative accreditation system; or

"(II) to other postsecondary certification, credential, or degree courses or programs at an educational institution that is eligible to participate in a program under title IV but is not accredited as part of an alternative accreditation system.

"(v) The Secretary's reporting requirements for the State regarding the State alternative accreditation system, including—

"(I) the contents of reports that must be submitted to the Secretary, which may include information such as—

"(aa) in the case of a postsecondary education course or program that is accredited through the State alternative accreditation system—

"(AA) the number and percentage of students who successfully complete each such postsecondary education course or program; and

"(BB) the number and percentage of students who successfully obtain a postsecondary certification, credential, or degree using credit obtained from each such postsecondary education course or program; and

“(bb) in the case of an institution that provides postsecondary education that is accredited through the State alternative accreditation system—

“(AA) the number and percentage of students who successfully obtain a postsecondary certification, credential, or degree from such institution; and

“(BB) the number and percentage of students who do not successfully obtain a postsecondary certification, credential, or degree from such institution but do obtain credit from such institution toward a postsecondary degree, credential, or certification;

"(II) the frequency with which such reports must be submitted to the Secretary; and

"(III) any requirements for third party verification of information contained in such reports.

"(vi) The State policy regarding public accessibility to certain information relating to institutions that provide postsecondary education and postsecondary education courses and programs accredited under the State alternative accreditation system, including—

"(I) the information described in clause (v)(I); and

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

"(vii) An assurance by the State that under the State alternative accreditation system, only institutions that provide postsecondary education and postsecondary education courses or programs that provide credits toward a postsecondary certification, credential, or degree (as defined by the State in accordance with clause (viii)) will be accredited.

"(viii) The State's definition of a postsecondary certification, credential, or degree, as such term applies to the requirement described in clause (vii).

"(ix) A description of the agreements that the State will enter into with institutions that provide postsecondary education and postsecondary education courses or programs that are accredited under the alternative accreditation system to enable such institutions, courses, or programs to be eligible under a program authorized under title IV, for participation in the direct student loan program, and for the origination of loans under part D of title IV, and how such agreements will operate in lieu of the agreements described in sections 487 and 454.

"(x) A description of how the State will select institutions that provide postsecondary education and postsecondary education courses or programs that are accredited under the alternative accreditation system, in lieu of the selection process described in section 453, for—

"(I) participation in the direct student loan program under part D of title IV; and

"(II) approval allowing such institution, program, or course to originate direct loans under part D of title IV.

"(xi) A description of how the State will administer title IV funds for institutions that provide postsecondary education, postsecondary apprenticeship programs, and postsecondary education courses or programs provided by an institution of postsecondary education, a nonprofit organization, or a for-profit organization or business that are accredited through the alternative accreditation system.

"(C) REVIEW AND APPROVAL.—Not later than 30 days after the Secretary receives an application from a State to enter into an alternative accreditation agreement, the Secretary shall—

"(i) approve the application and enter into the agreement; and

"(ii) submit to the State and Congress, and make publicly available, a response to the application.

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

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

"SEC. 493E. STATE ACCREDITED INSTITUTIONS, PROGRAMS, OR COURSES.

"Notwithstanding any other provision of law, an institution, program, or course that is eligible for funds under this title in accordance with section 102(a)(1)(B) and meets the requirements of section 102(a)(5) shall not be required to meet any other requirements of this title. For purposes of this title, such an institution, program, or course shall be deemed to be an eligible institution that meets the requirements of section 487.''.

TITLE II—TRANSPARENCY IN HIGHER EDUCATION

SEC. 201. TIME FOR TRANSPARENCY IN HIGHER EDUCATION.

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

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

''(30) The institution will publish information in compliance with section 493E.''; and

(2) in part G, by adding at the end the following:

''SEC. 493E. INSTITUTIONAL PUBLICATION OF INFORMATION.

''(a) PUBLICATION OF INFORMATION.—

''(1) IN GENERAL.—Each institution of higher education participating in a program under this title shall publish, on an annual basis and in a readily accessible format (including online and in an alternative format), the information described in paragraphs (2) and (3).

"(2) INFORMATION.—Each institution of higher education described in paragraph (1) shall publish, with respect to the institution as a whole and with respect to each program of study offered by the institution, the following information for the most recent fiscal year for which the information is available:

"(A) For each of the following, the percentage and number of students enrolled at the institution or in the program of study, as applicable, who receive the following:

"(i) Federal grant aid, including Federal Pell Grants under subpart 1 of part A, Federal Supplemental Educational Opportunity Grants under subpart 3 of part A, or any other Federal postsecondary education grant aid or subsidy.

"(ii) Federal student loans, including Federal Direct Stafford Loans, Federal Direct Unsubsidized Stafford Loans, Federal Direct PLUS Loans, and Federal Perkins Loans.

"(iii) State grant aid.

"(iv) Institutional grants.

"(v) A student loan from a State.

"(vi) A student loan from another source.

"(B) Student body enrollment status, including as a—

"(i) first-time, full-time student;

"(ii) first-time, part-time student;

"(iii) non-first-time, full-time student; and

"(iv) non-first-time, part-time student.

"(C) An alumni report that includes the following:

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

"(ii) The percentage of students who transfer.

"(iii) The percentage of students who complete the program of study the student initially started upon enrollment.

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

"(v) The percentage of alumni who continue on to higher levels of education.

"(vi) The percentage of alumni who are employed, disaggregated by program of study.

"(vii) The average salary for alumni, disaggregated by program of study.

"(viii) The number and percentage of alumni contacted for such report.

"(ix) The response rate of alumni contacted for such report.

"(3) PUBLICATION OF DEFAULT AND NON-REPAYMENT RATES.—In addition to the information described in paragraph (2), each institution of higher education described in paragraph (1) shall publish, with respect to the institution as a whole and with respect to each program of study offered by the institution, the following information for the most recent fiscal year for which the information is available:

"(A) The average amount of total Federal student loan debt accrued upon graduation.

"(B) The average amount of total Federal student loan debt accrued by students who leave the institution without having graduated.

"(C) Federal student loan default rate.

“(D) Federal student loan non-repayment rate.

“(E) Default and non-repayment rate, including as a—

“(i) first-time, full-time student;

“(ii) first-time, part-time student;

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

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

“(F) Default and non-repayment rate, of—

“(i) students who complete a program of study;

“(ii) students who transfer; and

“(iii) students who do not complete a program of study.

“(b) PRIVACY.—

“(1) COMPLIANCE WITH FERPA.—In carrying out this section, an institution of higher education and any personnel of the institution shall not share any personally identifiable information and shall act in accordance with section 444 of the General Education Provisions Act (20 U.S.C. 1232g, commonly known as the ‘Family Educational Rights and Privacy Act of 1974’).

"(2) PROHIBITION ON USE OF INFORMATION.—Information published pursuant to this section shall not be used—

"(A) by a Federal employee, agency, or officer, or an institution of higher education to take action against an individual; and

"(B) in legal processes or admitted as evidence in any judicial or administrative proceeding.

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

"(4) AUDITS.—In carrying out this section, the State in which the institution of higher education is located shall contract with an independent third party to conduct audits of the publication of information described in subsection (a)(1) to ensure quality, validity, reliability, and compliance with all Federal standards of data quality and individual privacy.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize or permit the Secretary or any employee or contractor of the Department to mandate, direct, or control the selection of practices or curriculum by an institution of higher education.".

(b) GAO REPORT.—

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

(2) REPORT.—Not later than October 1 of the fourth fiscal year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report containing the results of the study under paragraph (1) to the appropriate committees of Congress.

TITLE III—FISCAL ACCOUNTABILITY

SEC. 301. SIMPLIFICATION OF FEDERAL STUDENT LOANS.

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

"SEC. 461. FEDERAL DIRECT SIMPLIFICATION LOANS.

"(a) TERMINATION OF AUTHORITY TO MAKE LOANS UNDER THIS PART.—

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

Education Reform and Opportunity Act of 2017, the Secretary may not make loans under this part except as provided under this section.

"(2) EXCEPTION.—

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

"(B) SUNSET.—A loan may not be made to an individual, or on behalf of an individual, who received a loan under this part for any period of instruction before July 1, 2017, under this part, other than as provided under this section, on or after July 1, 2019.

"(b) FEDERAL DIRECT SIMPLIFICATION LOANS.—The Secretary shall make loans to borrowers under this section in accordance with the following:

"(1) The applicable rate of interest on a loan made under this section shall, for loans disbursed during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

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

‘‘(B) 3.6 percent.

‘‘(2) Interest on a loan made under this section shall begin to accrue on the date the loan is disbursed.

‘‘(3) The maximum—

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

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

‘‘(4) The maximum—

‘‘(A) annual amount of loans under this section a graduate or professional student may borrow in any academic year (as defined in section 481(a)(2)) or its equivalent shall be equal to $13,500; and

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

"(5) The length of repayment—

"(A) for a loan borrowed by an undergraduate student shall be 15 years; and

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

"(6) Repayment on a loan made under this section shall begin—

"(A) after 125 percent of the normal time for completion of the program of study for which the borrower receives the loan under this section; or

"(B) if the borrower withdraws from the program of study before the borrower completes the program, 6 months after the date the borrower withdraws.

"(c) AUTHORIZATION TO LIMIT LOAN AMOUNTS.—An institution of higher education that is required under State law to enroll all eligible applicants for an academic year may limit the amount of loans under this section that a student may borrow for such academic year to not more than the tuition and fees at such institution for such academic year.

"(d) ADDITIONAL CHARGES.—The Secretary may not charge the borrower of a loan made under this section any fee for administrative costs that is not described under this section.

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

SEC. 302. PHASING OUT LOAN FORGIVENESS.

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

(1) in section 455—

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

"(6) ELIMINATION OF LOAN FORGIVENESS.—Notwithstanding any other provision of this Act, with respect to any loan made on or after 6 months after the date of enactment of the Higher Education Reform and Opportunity Act of 2017, the Secretary may not repay or cancel any outstanding balance of principal and interest due on the loan for the borrower of the loan pursuant to this subsection.";

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

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

Reform and Opportunity Act of 2017, the Secretary may not repay or cancel any outstanding balance of principal and interest due on the loan for the borrower of the loan pursuant to this subsection.''; and

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

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

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

''(f) ELIMINATION OF LOAN FORGIVENESS.—Notwithstanding any other provision of this Act, with respect to any loan made on or after 6 months after the date of enactment of the Higher Education Reform and Opportunity Act of 2017, the Secretary may not repay or cancel any outstanding balance of principal and interest due on the loan for the borrower of the loan pursuant to this section.''.

TITLE IV—SCHOOL ACCOUNTABILITY FOR STUDENT LOANS

SEC. 401. SCHOOL ACCOUNTABILITY FOR STUDENT LOANS.

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

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

"(31) The institution will pay a default rate fine that is determined pursuant to subsection (k)."; and

(2) by adding at the end the following:

"(k) DEFAULT RATE FINE.—

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

"(2) APPLICABLE INSTITUTIONS.—An institution shall pay a default rate fine under this subsection for a fiscal year based on the cohort default rate on loans made, insured, or guaranteed under this title for such fiscal year.

"(3) FINE.—

"(A) IN GENERAL.—Each institution described in paragraph (2) shall pay a default rate fine for a fiscal year that is equal to 10 percent of the applicable amount determined under subparagraph (B)(i) for such fiscal year.

"(B) APPLICABLE AMOUNT.—

"(i) IN GENERAL.—The applicable amount for a fiscal year with respect to an institution shall be an amount equal to the product of the amount of loans made, insured, or guaranteed under this title for such fiscal year, and the applicable rate determined in clause (ii). If the applicable rate is equal to or less than zero percent then the applicable amount shall be equal to zero.

"(ii) APPLICABLE RATE.—The applicable rate for a fiscal year with respect to an institution shall be the rate that is equal to the difference between the default rate on loans made, insured, or guaranteed under this title for such fiscal year and the average rate of total unemployment in the United States for such fiscal year, as determined by the Secretary of Labor.

"(4) CREDIT FOR CERTAIN INSTITUTIONS.—Each institution that is described in paragraph (2) shall receive a $400 credit for the fiscal year for each graduate of the institution during such fiscal year who received a Federal Pell Grant while enrolled at the institution.

"(5) FLEXIBILITY IN COUNSEL AND ADVICE.—Notwithstanding any other provision of the Act, the Secretary shall grant institutions of higher education flexibility under this Act to counsel and advise students on Federal financial aid, including granting flexibility for institutions to award less than the maximum amount of Federal student aid for which an individual is eligible if the cost of tuition, room, and board at the institution is less than such maximum amount.".

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