

117TH CONGRESS
1ST SESSION

S. 3359

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

IN THE SENATE OF THE UNITED STATES

DECEMBER 9, 2021

Mr. CASEY (for himself, Mr. BOOKER, Mr. KAINE, and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Correctly Recognizing
5 Educational Achievements To Empower Graduates Act”
6 or the “CREATE Graduates Act”.

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

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

5 **“PART C—CREATE GRADUATES**

6 **“SEC. 751. PURPOSE.**

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

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

16 “(2) providing outreach to those students who
17 are within 12 credits of earning an associate degree;
18 and

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

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

2 “(a) DEFINITION OF INSTITUTION OF HIGHER EDU-
3 CATION.—In this part, the term ‘institution of higher edu-
4 cation’ has the meaning given the term in section 101(a).

5 “(b) PROGRAM AUTHORIZED.—

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

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

19 “(c) SUBMISSION AND CONTENTS OF APPLICA-
20 TION.—

21 “(1) IN GENERAL.—The State, acting through
22 the State higher education agency or other State
23 agency determined appropriate by the Governor or
24 chief executive officer of the State, shall submit an
25 application to the Secretary at such time, in such

1 manner, and containing such information as the Sec-
2 retary may require.

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

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

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

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

25 “(D) A description of—

1 “(i) the structure that the State has
2 in place to administer the activities and
3 services described in subsection (e), includ-
4 ing—

5 “(I) the capacity of the State’s
6 longitudinal data system to—

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

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

15 “(cc) include all institutions
16 of higher education in the State;
17 and

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

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

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

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

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

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

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

24 “(e) MANDATORY USE OF FUNDS.—

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

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

19 “(i) Each individual had completed, or
 20 is expected to complete by the end of the
 21 semester, trimester, or quarter, not less
 22 than 45 postsecondary credit hours (or the
 23 minimum required by the State to earn an
 24 associate degree)—

1 “(I) in the case of former stu-
2 dents who were enrolled at the institu-
3 tion of higher education or at the in-
4 stitutions of higher education within
5 the system of higher education, as the
6 case may be, at the institution or in-
7 stitutions; and

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

15 “(ii) Each individual has not had any
16 postsecondary degree or certificate, at the
17 associate degree level or higher, issued to
18 the student by an institution of higher edu-
19 cation.

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

23 “(i) Eligible to obtain an associate de-
24 gree.

1 “(ii) Eligible to obtain an associate
2 degree upon the completion of 12 or fewer
3 postsecondary credit hours (or the equiva-
4 lent).

5 “(iii) Not eligible under either clause
6 (i) or (ii).

7 “(C) Provide outreach to each student
8 identified in subparagraph (B)(i), and award
9 the earned associate degree to such student, un-
10 less such student declines through a written or
11 oral declaration.

12 “(D) Provide outreach to each student
13 identified in subparagraph (B)(ii) that includes
14 information regarding next steps toward degree
15 attainment, including financial aid options.

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

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

5 “(A) have up-to-date degree audit software
6 or systems to increase automation of degree au-
7 dits and transcript exchange, or a plan to invest
8 and develop such software or systems;

9 “(B) if such policy is permissible under ap-
10 plicable accreditation or State standards, use a
11 policy that awards associate degrees to any can-
12 didate identified in paragraph (1)(B)(i) and
13 provides candidates with a process to opt out of
14 such award program;

15 “(C) waive nonacademic barriers to grad-
16 uation, such as an application, swimming test,
17 library fine, transcript exchange fee, graduation
18 fee, parking ticket, or any other nominal fee;

19 “(D) waive or amend residency and
20 recency requirements to prevent earned credits
21 from expiring, if such action is permissible
22 under accreditation or State standards;

23 “(E) provide students with tuition waivers,
24 reduced tuition, or prior learning assessments

1 for those who need to earn remaining credits;
 2 and

3 “(F) agree that, after the conclusion of the
 4 activities described in paragraph (1) and con-
 5 tinuing after the end of the grant period, the
 6 institution or system will—

7 “(i) conduct degree audits for all en-
 8 rolled students once the students enroll in
 9 45 postsecondary credit hours; and

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

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

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

22 “(2) not more than 5 percent of the total
 23 amount received under this section to create articu-
 24 lation agreements between 2-year and 4-year institu-
 25 tions of higher education, in order to enhance col-

1 laboration and strengthen the transition pathways
2 between such institutions for transfer students.

3 “(g) SPECIAL CONDITIONS AND PROHIBITIONS.—

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

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

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

1 vacy Act of 1974') that would apply to the State, in-
 2 stitution, or system.

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

11 “(h) REPORT.—

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

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

23 “(B) The number of students who were re-
 24 moved from such group because the students

1 had received a degree elsewhere, in accordance
2 with subsection (e)(1)(A)(ii).

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

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

8 “(E) The number of students identified
9 under subsection (e)(1)(B)(ii) as eligible to ob-
10 tain an associate degree upon the completion of
11 12 or fewer credits.

12 “(F) The number of students identified
13 under subsection (e)(1)(B)(iii) as ineligible to
14 obtain an associate degree and ineligible to ob-
15 tain such a degree upon the completion of 12
16 or fewer credits.

17 “(G) The number of students awarded an
18 associate degree under subsection (e)(1)(C).

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

23 “(I) The average amount of credit hours
24 previously earned by students described in sub-

1 section (e)(1)(B)(i) when the associate degrees
2 are awarded.

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

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

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

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

16 “(2) DISAGGREGATION.—The report shall in-
17 clude the information described in subparagraphs
18 (A) through (L) of paragraph (1) in the aggregate
19 and disaggregated by age, gender, race or ethnicity,
20 status as an individual with a disability, and socio-
21 economic status (including status as a Federal Pell
22 Grant recipient), except that such disaggregation
23 shall not be required in a case in which the number
24 of students in a category is insufficient to yield sta-
25 tistically reliable information or the results would re-

1 veal personally identifiable information about an in-
2 dividual student.

3 “(i) ENFORCEMENT PROVISIONS.—

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

8 “(A) withhold funds provided under a
9 grant or subgrant under this section if a State
10 or institution of higher education is failing to
11 comply substantially with the requirements of
12 this section; or

13 “(B) take actions to recover funds pro-
14 vided under a grant or subgrant under this sec-
15 tion, if the State or institution made an unal-
16 lowable expense, or otherwise failed to discharge
17 its responsibility to properly account for funds.

18 “(2) USE OF RECOVERED OR UNUSED
19 FUNDS.—Any funds recovered or withheld under
20 paragraph (1) shall—

21 “(A) be credited to the appropriations ac-
22 count from which amounts are available to
23 make grants or enter cooperative agreements
24 under this section; and

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

4 “(j) AUTHORIZATION OF APPROPRIATIONS.—There
 5 are authorized to be appropriated to carry out this section
 6 such sums as may be necessary for fiscal year 2022 and
 7 each of the 2 subsequent fiscal years.”.

8 **SEC. 3. RELEASE OF EDUCATION RECORDS TO FACILITATE**
 9 **THE AWARD OF A RECOGNIZED POSTSEC-**
 10 **ONDARY CREDENTIAL.**

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

13 (1) in paragraph (1)—

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

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

18 (2) by inserting after subparagraph (L) the fol-
 19 lowing:

20 “(M) an institution of postsecondary education
 21 in which the student was previously enrolled, to
 22 which records of postsecondary coursework and cred-
 23 its are sent for the purpose of applying such
 24 coursework and credits toward completion of a rec-
 25 ognized postsecondary credential (as that term is de-

1 fined in section 3 of the Workforce Innovation and
2 Opportunity Act (29 U.S.C. 3102)), upon condition
3 that the student provides written consent prior to re-
4 ceiving such credential.”.

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