

## Appendix V: Federal Legislation

### **Pay It Forward College Affordability Act of 2014 (S. 1884/H.R.3959)**

S. 1884 and H.R. 3959 were introduced in Congress on December 20, 2013 and January 29, 2014, respectively by Senator Jeff Merkley (D-OR) and Rep. Suzanne Bonamici (R-OR). This legislation directs the Secretary of Education to conduct studies regarding the feasibility of, and options for, implementing a Pay It Forward (PIF) model for funding higher education. If the Secretary determines that a PIF funding model is feasible, competitive matching grants would be awarded to a limited number of states to establish and carry out state pilot programs. This bill would limit the PIF to 5 percent of a participant's income, payable for a term not to exceed 25 years.

The Senate version of this legislation was referred to the Senate Committee on Health, Education, Labor, and Pensions on December 20, 2013. The House version was referred to the House Education Committee and, in turn, referred to the House Subcommittee on Higher Education and Workforce Training on June 13, 2014.

### **Investing in Student Success Act of 2014 (S. 2230/H.R. 4436)**

S. 2230 and H.R. 4436 were introduced in Congress on April 9, 2014 by Senator Mark Rubio (R-FL) and Rep. Thomas Petri (R-FL). This legislation introduces an income share agreement (ISA) as a potential federal funding source for higher education in lieu of borrowers taking out student loans. The bill defines an ISA as, "an agreement between an individual and any other person under which the individual commits to pay a specified percentage of the individual's future income, for a specified period of time, in exchange for payments to or on behalf of such individual for postsecondary education, workforce development, or other purposes." The agreement would specify the percentage of a participant's future income (it must exempt, at a minimum, the first \$10,000 of income each year, and specify what will be considered the individual's income. The ISA would limit the participant's payment obligation to no more than 15% of future income, payable for a term not to exceed 30 years (excluding any period during which an individual's income was below the agreement's exempt amount). The agreement would also specify the terms and conditions for early termination of a participant's payment period.

This legislation would exclude payments that are made under an ISA from the participant's gross income for tax purposes. It also would amend the Internal Revenue Code to include an ISA as qualified education loans, but denies the deduction for interest paid on such loans. The amounts participants receive for entering into an ISA would also be prohibited from being included as income or assets in the computation of the expected family contribution (EFC) for any program funded under the Higher Education Act of 1965.

The Senate version of this legislation was referred to Senate Committee on Finance on April 9, 2014. The House version was referred to the House Education Committee, as well as the House Financial Services and Ways and Means Committees, on April 9, 2014. The Education Committee, in turn, referred the legislation to the House Subcommittee on Higher Education and Workforce Training on June 13, 2014.

*\* Copies of H.R. 3959 (S. 1884 is nearly identical) and H.R. 4436 (S. 2230 is identical) follow.*

113TH CONGRESS  
2D SESSION

# H. R. 3959

To establish a Pay It Forward model for funding postsecondary education.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 2014

Ms. BONAMICI (for herself and Mr. KILDEE) introduced the following bill;  
which was referred to the Committee on Education and the Workforce

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## A BILL

To establish a Pay It Forward model for funding  
postsecondary education.

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 “Pay It Forward Col-  
5 lege Affordability Act of 2014”.

6 **SEC. 2. FINDINGS; PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) Postsecondary education has expanded op-  
9 portunities for people in the United States to qualify  
10 for high-quality jobs and entry into the middle class,  
11 providing clear benefits to the Nation’s economy.

1           (2) Public investment by the States in higher  
2 education has decreased significantly, especially in  
3 the past 5 years before the date of enactment of this  
4 Act, as a result of the 2008 fiscal collapse.

5           (3) With college costs rising beyond the reach  
6 of many people in the United States, financial aid  
7 programs are inadequate to reach all students with  
8 financial need.

9           (4) The increasing unaffordability of a college  
10 education has forced students to borrow more money  
11 to pay for higher education, causing two-thirds of  
12 college seniors to graduate with an average student  
13 debt of \$26,600.

14           (5) High levels of student debt are damaging  
15 not only to the individual student's ability to succeed  
16 financially but also will have grave consequences for  
17 the future economy of the United States.

18           (6) Congress must halt the decrease in State  
19 support for education and, over time, must catalyze  
20 increases in State funding for higher education.

21           (7) There is a need to encourage a new ap-  
22 proach to financing the students' share of the cost  
23 of higher education that will not result in graduates  
24 who are overburdened with student debt.

1           (8) The Pay It Forward model presents a new  
2 opportunity for financing and expanding higher edu-  
3 cation, through the replacement of tuition and man-  
4 datory fees with a post-graduation contribution pro-  
5 gram that establishes the funding for access to high-  
6 er education for the next generational cohort of stu-  
7 dents.

8           (b) PURPOSE.—The purpose of this Act is to test and  
9 encourage the development of Pay It Forward model fi-  
10 nancing programs.

11 **SEC. 3. DEFINITIONS.**

12       In this Act:

13           (1) ANNUAL INCOME.—The term “annual in-  
14 come” means an amount equal to the sum of—

15               (A) annual adjusted gross income, as de-  
16 fined in section 62 of the Internal Revenue  
17 Code of 1986; and

18               (B) any amount described under section  
19 103 of the Internal Revenue Code of 1986.

20           (2) COST OF ATTENDANCE.—The term “cost of  
21 attendance” has the meaning given the term in sec-  
22 tion 472 of the Higher Education Act of 1965 (20  
23 U.S.C. 1087l).

24           (3) INSTITUTION OF HIGHER EDUCATION.—

1 (A) INSTITUTION OF HIGHER EDU-  
2 CATION.—The term “institution of higher edu-  
3 cation” has the meaning given the term in sec-  
4 tion 102 of the Higher Education Act of 1965  
5 (20 U.S.C. 1002), except that for purposes of  
6 this Act, an institution of higher education does  
7 not include any program of postsecondary edu-  
8 cation or training, including a degree or certifi-  
9 cate program, that is designed to prepare stu-  
10 dents for entry into a recognized occupation or  
11 profession that requires licensing or other es-  
12 tablished requirements as a pre-condition for  
13 entry into such occupation or profession, un-  
14 less—

15 (i) the successful completion of the  
16 program fully qualifies a student, in the  
17 State in which the institution offering the  
18 program is located (and in any State in  
19 which the institution indicates, through ad-  
20 vertising or marketing activities or direct  
21 contact with potential students, that a stu-  
22 dent will be prepared to work in the occu-  
23 pation or profession after successfully com-  
24 pleting the program), to—

1 (I) take any examination re-  
2 quired for entry into the recognized  
3 occupation or profession in the State,  
4 including satisfying all State or pro-  
5 fessionally mandated programmatic  
6 and specialized accreditation require-  
7 ments, if any; and

8 (II) be certified or licensed or  
9 meet any other academically related  
10 pre-conditions that are required for  
11 entry into the recognized occupation  
12 or profession in the State;

13 (ii) the institution offering the pro-  
14 gram provides timely placement for all of  
15 the academically related pre-licensure re-  
16 quirements for entry into the recognized  
17 occupation or profession in the State, such  
18 as clinical placements, internships, or ap-  
19 prenticeships;

20 (iii) in the case of State licensing or  
21 professionally mandated requirements for  
22 entry into the recognized occupation or  
23 profession in the State in which the insti-  
24 tution offering the program is located (and  
25 in any State in which the institution indi-

1 cates, through advertising or marketing ac-  
2 tivities or direct contact with potential stu-  
3 dents, that a student will be prepared to  
4 work in the occupation or profession after  
5 successfully completing the program) that  
6 require specialized accreditation—

7 (I) the program meets that re-  
8 quirement for specialized accreditation  
9 through its accreditation or pre-ac-  
10 creditation by an accrediting agency  
11 or association recognized by the Sec-  
12 retary of Education as a reliable au-  
13 thority as to the quality or training  
14 offered by the institution in that pro-  
15 gram; and

16 (II) if the program is in a pre-ac-  
17 credited, probation, or show cause sta-  
18 tus by an accrediting agency or asso-  
19 ciation described in subclause (I), and  
20 the requirement for specialized accred-  
21 itation is for full accreditation, the in-  
22 stitution—

23 (aa) establishes, to the satis-  
24 faction of the Secretary of Edu-  
25 cation, that each student who en-

1 rolls before the program is fully  
2 accredited attests of being ad-  
3 vised that the program is in a  
4 pre-accredited, probation, or  
5 show cause status and of being  
6 informed of the effect on the stu-  
7 dent's eligibility for assistance  
8 under this Act and on the stu-  
9 dent's ability to satisfy State or  
10 professionally mandated require-  
11 ments for entry into the recog-  
12 nized occupation or profession if  
13 full accreditation is delayed, de-  
14 nied, terminated, or withdrawn;  
15 and

16 (bb) publicly and promi-  
17 nently discloses in any adver-  
18 tising, marketing, or recruitment  
19 materials and activities for the  
20 institution, the institution's pre-  
21 accredited, probation, or show  
22 cause status and the implications  
23 of such status for prospective  
24 students; and

25 (iv) the institution—



1 (I) discloses on the application to  
2 enroll in the institution that its pro-  
3 gram does not necessarily satisfy out-  
4 of-State requirements, if applicable;  
5 and

6 (II) upon receipt of an applica-  
7 tion to enroll in the institution, noti-  
8 fies the student, prior to enrollment, if  
9 the program in which the student in-  
10 tends to enroll does not satisfy the re-  
11 quirements of the State in which the  
12 student is a resident, if applicable.

13 (B) SCHOOL, DEPARTMENT, OR PRO-  
14 GRAM.—The term “institution of higher edu-  
15 cation” may include a particular school, depart-  
16 ment, or program within an institution of high-  
17 er education described in subparagraph (A).

18 (4) PAY IT FORWARD MODEL.—The term “Pay  
19 It Forward model” means a system in which—

20 (A) the Secretary, a State, or an institu-  
21 tion of higher education pays all or part of a  
22 participating student’s cost of attendance, but  
23 not less than an amount equal to the cost of  
24 tuition and mandatory fees, for each such stu-  
25 dent during some or all of the time that the

1 student is enrolled at an institution of higher  
2 education in order to replace the student's need  
3 to borrow under the Federal Direct Stafford  
4 Loan and Federal Direct Unsubsidized Stafford  
5 Loan Programs under part D of title IV of the  
6 Higher Education Act of 1965 (20 U.S.C.  
7 1087a et seq.); and

8 (B) such student signs a contract agreeing  
9 to contribute to the Secretary, a State, or an  
10 institution of higher education, as the case may  
11 be, a certain percentage (not to exceed 5 per-  
12 cent) of the student's annual income, for a  
13 specified number of years upon graduation or  
14 when the student ceases to be enrolled at such  
15 institution of higher education, except that the  
16 specified number of years for which the student  
17 agrees to contribute according to such contract  
18 shall not exceed 25 years, which shall be known  
19 as the "Pay It Forward Contribution Plan".

20 (5) SECRETARY.—The term "Secretary" means  
21 the Secretary of Education.

22 (6) TUITION AND MANDATORY FEES.—The  
23 term "tuition and mandatory fees" means tuition  
24 and fees normally assessed a student carrying the

1 same academic workload as determined by the insti-  
2 tution of higher education.

3 **SEC. 4. INITIAL STUDIES.**

4 (a) IN GENERAL.—Not later than 180 days after the  
5 date of enactment of this Act, the Secretary, in consulta-  
6 tion with the Secretary of the Treasury—

7 (1) and the Director of the Consumer Financial  
8 Protection Bureau, shall conduct a study on the fea-  
9 sibility of, and options for, implementing the Pay It  
10 Forward model, in a manner that is in the best in-  
11 terests of students; and

12 (2) shall conduct a study—

13 (A) on whether the student loan servicer  
14 payment program or the Internal Revenue Serv-  
15 ice income tax withholding mechanism (such as  
16 preauthorized automatic electronic funds trans-  
17 fers) of collection for the Pay It Forward model  
18 would work best;

19 (B) on how best to establish a participant's  
20 agreement described under section 5(g)(3), or a  
21 similar agreement made under another Pay It  
22 Forward model, including what percentage of a  
23 participant's income the participant should be  
24 required to contribute and what is an appro-  
25 priate time period for contribution;

1 (C) on how the rates of contribution under  
2 the Pay It Forward model may differ—

3 (i) according to different income lev-  
4 els; and

5 (ii) based on whether the student pur-  
6 sues a graduate or professional education  
7 program immediately after completing  
8 their undergraduate education or at a fu-  
9 ture time;

10 (D) on how best to streamline the collec-  
11 tion process and ensure compliance; and

12 (E) on ways to prevent increases in tuition  
13 and other education costs.

14 (b) REPORT.—Not later than 30 days after the com-  
15 pletion of the studies described in subsection (a), the Sec-  
16 retary shall prepare and submit a report containing the  
17 results of the initial studies described in subsection (a),  
18 to the Committee on Health, Education, Labor, and Pen-  
19 sions of the Senate, the Committee on Banking, Housing,  
20 and Urban Affairs of the Senate, the Committee on Fi-  
21 nance of the Senate, the Committee on Education and the  
22 Workforce of the House of Representatives, the Com-  
23 mittee on Financial Services of the House of Representa-  
24 tives, and the Committee on Ways and Means of the  
25 House of Representatives.

1 **SEC. 5. GRANTS FOR STATE PAY IT FORWARD PILOT PRO-**  
2 **GRAM.**

3 (a) IN GENERAL.—Unless the Secretary determines,  
4 as a result of the initial studies described in section 4,  
5 that the Pay It Forward model is not feasible or otherwise  
6 not in the public interest or in the best interest of stu-  
7 dents, the Secretary shall, not later than 1 year after the  
8 completion of such initial study, award grants, on a com-  
9 petitive basis, to not more than 3 States in the first 2  
10 years and not more than 7 additional States in subsequent  
11 years (while limiting the number of students participating  
12 to 15,000 annually in the first 2 years and 50,000 annu-  
13 ally in subsequent years in all States) to enable such  
14 States to establish and carry out a Pay It Forward model  
15 State pilot program as described in subsection (e).

16 (b) APPLICATION; DURATION.—

17 (1) APPLICATION.—Each State that desires to  
18 receive a grant under this section shall submit an  
19 application to the Secretary at such time, in such  
20 manner, and containing such information as the Sec-  
21 retary may reasonably require.

22 (2) DURATION.—Grants awarded under this  
23 section shall be for a period of not less than 10  
24 years and not more than 25 years and the Secretary  
25 shall make grant funds available to each State on an  
26 annual basis.

1           (c) STATE CONTRIBUTION REQUIREMENT.—A State  
2 receiving a grant under this section shall provide, either  
3 directly or through private contributions, non-Federal  
4 funds for each award year in an amount that is not less  
5 than the greater of—

6           (1) the difference between—

7                   (A) the amount for an award year that the  
8 State has agreed to pay for all students partici-  
9 pating in the State Pay It Forward Contribu-  
10 tion Plan described in subsection (e); and

11                   (B) the amount of the Federal funds de-  
12 scribed in subsection (e)(2); or

13           (2) the amount that is 10 percent of the  
14 amount of the Federal funds described in subsection  
15 (e)(2).

16           (d) MAINTENANCE OF EFFORT.—Each State receiv-  
17 ing a grant under this section for a fiscal year shall pro-  
18 vide the Secretary with an assurance that the aggregate  
19 expenditures by the State, from funds derived from non-  
20 Federal sources, for the contribution to higher education  
21 costs, including student loans and grants for higher edu-  
22 cation for each fiscal year for which a grant is awarded  
23 under this section (excluding funds for a State Pay It For-  
24 ward model) are not less than the aggregate expenditures  
25 by the State for the contribution to higher education costs,

1 including student loans and grants for higher education,  
2 for the fiscal year preceding the first fiscal year for which  
3 a grant was awarded to the State under this section, as  
4 adjusted for inflation using the Consumer Price Index for  
5 All Urban Consumers published by the Department of  
6 Labor (CPI-U).

7 (e) STATE PILOT PROGRAM.—

8 (1) STATE ACTIVITIES.—In accordance with  
9 subsection (a), each State receiving a grant under  
10 this section shall establish and carry out a State Pay  
11 It Forward model pilot program, through which the  
12 State shall—

13 (A) select eligible institutions, in accord-  
14 ance with subsection (f), for participation in the  
15 program;

16 (B) in coordination with the Secretary, es-  
17 tablish an application and enrollment process  
18 through which a student who is enrolled at a  
19 participating eligible institution who wishes to  
20 participate in the program, and fulfills the re-  
21 quirements of the enrollment process, as deter-  
22 mined by the State, shall be enrolled in the Pay  
23 It Forward Contribution Plan, subject to para-  
24 graph (3);

1 (C) provide each student at each partici-  
2 pating eligible institution with a written no-  
3 tice—

4 (i) that such student has the option to  
5 participate, or to decline to participate, in  
6 the Pay It Forward Contribution Plan on  
7 an annual renewable basis, subject to para-  
8 graph (3);

9 (ii) of the application and enrollment  
10 process described in subparagraph (B);  
11 and

12 (iii) of the terms and conditions of the  
13 Pay It Forward Contribution Plan, as de-  
14 scribed in subsection (g);

15 (D) ensure that, subject to subsection  
16 (g)(5)(A) and in accordance with paragraphs  
17 (4) and (5) of subsection (g), an eligible stu-  
18 dent's cost of attendance will be reduced by the  
19 amount of any assistance considered estimated  
20 financial assistance, as defined in section  
21 428(a)(2)(C) of the Higher Education Act of  
22 1965 (20 U.S.C. 1078(a)(2)(C)) prior to the  
23 awarding of aid under the Pay It Forward Con-  
24 tribution Plan toward the student's cost of at-  
25 tendance;



1           (E) award funds, from amounts made  
2 available under subsection (c), any other State  
3 funds, and amounts made available under para-  
4 graph (2)(B) to pay—

5           (i) each participating institution an  
6 amount equal to the tuition and mandatory  
7 fees for each student at that institution  
8 who is enrolled in the Pay It Forward Con-  
9 tribution Plan, as described in subsection  
10 (g), except that such amount shall, for  
11 each student, not exceed the lesser of—

12           (I) the amount of the tuition and  
13 mandatory fees for each such student  
14 at the most expensive public institu-  
15 tion of higher education in the State  
16 for the type of institution the partici-  
17 pating student attends (including a 4-  
18 year institution, 2-year institution, or  
19 1-year institution) for that award  
20 year; or

21           (II) the cost of attendance for  
22 each such student to attend the insti-  
23 tution at which the student is en-  
24 rolled; and

1 (ii) each participating student any ad-  
2 ditional costs of attendance that have been  
3 agreed to in the student's contract de-  
4 scribed in subsection (g), except that such  
5 additional costs shall be in an amount such  
6 that the sum of such additional costs and  
7 the amount of tuition and fees described in  
8 clause (i) shall, for each such student, not  
9 exceed the lesser of—

10 (I) the amount of the tuition and  
11 mandatory fees for a student at the  
12 most expensive public institution of  
13 higher education in the State for the  
14 type of institution the participating  
15 student attends (including a 4-year  
16 institution, 2-year institution, or 1-  
17 year institution) for that award year;  
18 or

19 (II) the cost of attendance for  
20 the student to attend the institution  
21 at which the student is enrolled.

22 (2) FEDERAL FUNDS.—The Secretary shall pay  
23 each State receiving a grant under this section, for  
24 each award year for the purpose of carrying out

1 paragraph (1)(E), an amount equal to the product  
2 of—

3 (A) the number of students in the State  
4 that are enrolled in the Pay It Forward Con-  
5 tribution Plan for that award year; multiplied  
6 by

7 (B) an amount equal to the sum of—

8 (i) the maximum amount that a stu-  
9 dent is eligible to receive through a Fed-  
10 eral Direct Stafford loan under part D of  
11 title IV of the Higher Education Act of  
12 1965 (20 U.S.C. 1087a et seq.) for that  
13 award year; plus

14 (ii) the maximum amount that a stu-  
15 dent is eligible to receive through a Fed-  
16 eral Direct Unsubsidized Stafford loan  
17 under part D of title IV of the Higher  
18 Education Act of 1965 (20 U.S.C. 1087a  
19 et seq.) for that award year.

20 (f) ELIGIBLE INSTITUTIONS.—

21 (1) IN GENERAL.—An eligible institution, for  
22 purposes of this section, means an institution of  
23 higher education, that—

24 (A) submits an application to the State at  
25 such time, in such manner, and containing such

1 information as the State may reasonably re-  
2 quire;

3 (B) agrees to participate in the Pay It  
4 Forward Contribution Plan and commits to  
5 participation in research that may be related to  
6 the Pay It Forward Contribution Plan; and

7 (C) agrees to maintain—

8 (i) in the case of an institution of  
9 higher education in which the entire insti-  
10 tution is participating, the level of institu-  
11 tional financial aid, including the level of  
12 institutional funding for student grants  
13 and loans, as adjusted for inflation by the  
14 Consumer Price Index for All Urban Con-  
15 sumers published by the Department of  
16 Labor (CPI-U), that the institution pro-  
17 vides at the time of the application to par-  
18 ticipate in the Pay It Forward Contribu-  
19 tion Plan throughout the duration of the  
20 Pay It Forward Contribution Plan; or

21 (ii) in the case of a department,  
22 school, or program within an institution of  
23 higher education, maintain the level of aid  
24 described in clause (i) on a department,  
25 school, or program-wide basis.

1           (2) SELECTION OF PARTICIPATING INSTITU-  
2           TIONS.—

3           (A) IN GENERAL.—If a sufficient number  
4           of eligible institutions in a State receiving a  
5           grant under this section wish to participate in  
6           the Pay It Forward Contribution Plan, such  
7           State shall establish methods for selecting eligi-  
8           ble institutions to participate, or otherwise set  
9           standards for participation, in such a way that  
10          meets the requirements of this paragraph and  
11          maximizes the utility of the research that re-  
12          sults from the evaluation of the Pay It Forward  
13          Contribution Plan.

14          (B) CRITERIA.—In selecting eligible insti-  
15          tutions under subparagraph (A), the State shall  
16          consider the extent to which selected institu-  
17          tions will represent varied geographic locations  
18          and types of institutions (such as community  
19          colleges, institutions that offer 4-year programs,  
20          or other variations in the types of institutions  
21          that are selected).

22          (C) PREFERENCE.—In selecting eligible in-  
23          stitutions under subparagraph (A), the State  
24          shall give preference to eligible institutions that  
25          have a history of making an effort to reduce or

1 hold constant tuition and mandatory fees and  
2 cost of attendance or have a plan to reduce or  
3 hold constant tuition and mandatory fees and  
4 cost of attendance, as determined by the State.

5 (3) ANNOUNCEMENT OF PARTICIPANTS.—Each  
6 State receiving a grant under this section shall an-  
7 nounce each eligible institution that is selected for  
8 participation in the Pay It Forward Contribution  
9 Plan at a time that provides students at partici-  
10 pating eligible institutions with adequate notice in  
11 advance of the commencement of the Pay It For-  
12 ward Contribution Plan at that institution.

13 (4) STATE AS GRANT RECIPIENT.—The Sec-  
14 retary may award grants to States that have devel-  
15 oped, or are in the process of developing, pilot Pay  
16 It Forward grant programs at the State level to en-  
17 able the State to carry out the activities described  
18 in this Act as if such State were an eligible institu-  
19 tion selected for participation in the Pay It Forward  
20 Contribution Plan.

21 (g) TERMS OF THE PAY IT FORWARD CONTRIBUTION  
22 PLAN.—If a student who attends a participating eligible  
23 institution has applied for and enrolled in the Pay It For-  
24 ward Contribution Plan as described in subsection  
25 (e)(1)(B)—

1 (1) the State shall pay—

2 (A) to the participating institution that  
3 such student attends not less than an amount  
4 equal to the cost of tuition and mandatory fees  
5 during the time that the student is enrolled as  
6 an undergraduate at the participating eligible  
7 institution and is participating in the Pay It  
8 Forward Contribution Plan, and for a period of  
9 not more than—

10 (i) 4 years; or

11 (ii) another period of time (such as a  
12 certain number of college credits or aca-  
13 demic years completed) that the State, the  
14 institution, and the student shall determine  
15 and specify in the agreement described  
16 under paragraph (3); and

17 (B) a student who attends a participating  
18 eligible institution and has applied for and en-  
19 rolled in the Pay It Forward Contribution Plan  
20 any additional costs of attendance that are  
21 agreed to by the State, the institution, and the  
22 student and are established in the contract de-  
23 scribed in paragraph (3), except that such addi-  
24 tional costs shall be in an amount such that the  
25 sum of such additional costs and the amount of

1           tuition and fees described in subparagraph (A)  
2           shall, for each such student and for each award  
3           year, not exceed the amount of the tuition and  
4           mandatory fees for a student at the most ex-  
5           pensive public institution of higher education in  
6           the State for the type of institution the partici-  
7           pating student attends (including a 4-year insti-  
8           tution, 2-year institution, or 1-year institution)  
9           for that award year;

10           (2) the State shall ensure that variations in the  
11           time that a student's tuition and mandatory fees is  
12           paid by the State shall be reflected in—

13                   (A) the length of the contribution period  
14                   established in the student's Pay It Forward  
15                   Contribution Plan agreement described under  
16                   paragraph (3), except that the length of such  
17                   contribution period shall not exceed 25 years;  
18                   and

19                   (B) the percentage of annual income that  
20                   such student shall contribute, as established in  
21                   the student's Pay It Forward Contribution Plan  
22                   agreement described under paragraph (3);

23           (3) the student shall sign a contract agreement,  
24           which shall include—



1 (A) the period of time (such as a certain  
2 number of college credits or academic years  
3 completed) during which the State will pay the  
4 institution that the student attends not less  
5 than an amount equal to the cost of tuition and  
6 mandatory fees that the student requests to  
7 have provided through the Pay It Forward Con-  
8 tribution Plan while the student is enrolled at  
9 such participating eligible institution; and

10 (B) any additional costs of attendance that  
11 the State agrees to pay for such student  
12 through the Pay It Forward Contribution Plan  
13 while the student is enrolled at such partici-  
14 pating eligible institution; and

15 (C) a statement that the student will con-  
16 tribute to the State a certain percentage (not to  
17 exceed 5 percent) of the student's annual in-  
18 come for a specified number of years upon  
19 graduation from such institution of higher edu-  
20 cation, successful completion of the student's  
21 course of study, or when such student ceases to  
22 be enrolled at such institution of higher edu-  
23 cation, as determined by the State, and the stu-  
24 dent shall be required to begin making such  
25 contributions on the date that is the later of—

1 (i) 1 calendar year after graduation  
2 from such institution of higher education,  
3 successful completion of the student's  
4 course of study, or when such student  
5 ceases to be enrolled at such institution of  
6 higher education, as determined by the  
7 State; or

8 (ii) 1 calendar year after the comple-  
9 tion of a year that the student is enrolled  
10 in the Pay It Forward Contribution Plan;

11 (4) the student shall continue to be eligible to  
12 obtain any grants, scholarships, or funds that do not  
13 have to be repaid (including Federal Pell Grants or  
14 any other Federal, State, or institutional grant  
15 money) that the student would otherwise be eligible  
16 to receive if the student was not a participant in the  
17 Pay It Forward Contribution Plan and that are ap-  
18 plied toward the student's tuition and mandatory  
19 fees at the eligible institution, and the amount of  
20 such grants, scholarships, or funds shall be deducted  
21 from the amount that the State would otherwise pay  
22 toward the student's tuition and mandatory fees  
23 under the Pay It Forward Contribution Plan, there-  
24 by proportionately reducing the percentage of a par-  
25 ticipating student's annual income that the student

1 will be required to contribute or the duration of the  
2 student's contribution period, as described under  
3 paragraph (3);

4 (5) the student shall continue to be eligible to  
5 obtain any other student loans, including Federal  
6 student loans (except for Federal Direct Stafford  
7 Loans under part D of title IV of the Higher Edu-  
8 cation Act of 1965 (20 U.S.C. 1087a et seq.)), that  
9 the student would otherwise be eligible to receive if  
10 the student was not a participant in the Pay It For-  
11 ward Contribution Plan except that—

12 (A) any funds received by a student under  
13 the Pay It Forward Contribution Plan shall be  
14 considered estimated financial assistance for  
15 purposes of calculations under section  
16 428(a)(2)(C) of the Higher Education Act of  
17 1965 (20 U.S.C. 1078(a)(2)(C)); and

18 (B) the amount of such loans shall be de-  
19 ducted from the amount that the State would  
20 otherwise pay toward the student's tuition and  
21 mandatory fees under the Pay It Forward Con-  
22 tribution Plan, thereby proportionately reducing  
23 the percentage of a participating student's an-  
24 nual income that the student will be required to  
25 contribute or the duration of the student's con-

1           tribution period, as described under paragraph  
2           (3); and  
3           (6) if the student obtains Federal student  
4           loans, such student shall remain eligible for applica-  
5           ble Federal loan repayment, forgiveness, or similar  
6           programs regarding such Federal student loans to  
7           the same extent that the student would be eligible  
8           for such repayment, forgiveness, or similar programs  
9           if the student were not also participating in the Pay  
10          It Forward Contribution Plan.

11          (h) METHOD OF CONTRIBUTION COLLECTION.—The  
12          Secretary, in consultation with the Secretary of the Treas-  
13          ury or a designee of the Secretary of the Treasury, shall  
14          work with appropriate State agencies to develop an effi-  
15          cient mechanism for students who enroll in the Pay It  
16          Forward Contribution Plan, including using existing stu-  
17          dent loan repayment structures, wage withholding (such  
18          as preauthorized automatic electronic funds transfers), or  
19          other suitable methods as the respective State agencies  
20          may determine and as approved by the Secretary.

21          (i) STATE REPORT.—Each State receiving a grant  
22          under this section shall annually prepare and submit a re-  
23          port to the Secretary containing such information about  
24          the grant program as the Secretary may require.

1 **SEC. 6. ADVISORY COUNCIL.**

2 (a) IN GENERAL.—The Secretary shall establish, and  
3 appoint members to, a technical advisory council to make  
4 recommendations to the Secretary about—

5 (1) how to design an evaluation of the Pay It  
6 Forward Contribution Plan described under section  
7 5;

8 (2) how to maximize the utility of the research  
9 results that may be used to evaluate such program;  
10 and

11 (3) implementation issues and solutions for  
12 State-based Pay It Forward model pilot programs,  
13 which may include applying a State-based Pay It  
14 Forward model pilot program for nontraditional stu-  
15 dents, including students who are older, already  
16 working, or attending school at night, and in cases  
17 in which graduates voluntarily leave the workforce.

18 (b) MEMBERS OF THE COUNCIL.—The technical ad-  
19 visory council established under this section shall include  
20 not more than 11 members, of whom—

21 (1) not less than 3 members shall be academic  
22 researchers with expertise in higher education;

23 (2) not less than 2 members shall have exper-  
24 tise in quantitative program evaluation;

25 (3) not less than 2 members shall be student  
26 advocates; and

1           (4) not less than 2 members shall be experts in  
2           budgetary and financial matters.

3           (c) REPORT.—The technical advisory council estab-  
4           lished under this section shall prepare and submit a report  
5           to the Secretary containing the recommendations de-  
6           scribed in subsection (a).

7           **SEC. 7. IMPLEMENTATION STUDY.**

8           (a) INITIAL EVALUATION.—Not later than 5 years  
9           after the establishment of the State Pay It Forward mod-  
10          els under section 5, the Secretary shall, after consideration  
11          of the advisory council recommendations regarding how to  
12          evaluate the Pay It Forward Contribution Plan described  
13          under section 6(a), conduct an initial evaluation of the  
14          Pay It Forward Contribution Plan, which may include an  
15          evaluation of—

16                (1) how the rates of contribution under the Pay  
17                It Forward model may differ according to different  
18                income levels;

19                (2) the rates of students who fail to contribute  
20                funds as agreed to under the Pay It Forward model;

21                (3) how best to establish a student's agreement  
22                described under section 5(g)(3), or a similar agree-  
23                ment made under another Pay It Forward model, in-  
24                cluding what percentage of a student's income the

1 student should be required to contribute and what is  
2 an appropriate time period for contribution;

3 (4) ways to prevent increases in tuition and  
4 other education costs; and

5 (5) ways to integrate existing Federal student  
6 loan repayment and forgiveness programs into the  
7 Pay It Forward model.

8 (b) EVALUATION.—Not later than 10 years after the  
9 establishment of the Pay It Forward Contribution Plan  
10 described under section 5, the Secretary shall, after con-  
11 sideration of the advisory council recommendations re-  
12 garding how to evaluate the Pay It Forward Contribution  
13 Plan—

14 (1) evaluate whether existing student loan debt  
15 could be converted into a Pay It Forward model;

16 (2) evaluate the impact of the Pay It Forward  
17 model on a student’s career choices and employment,  
18 including how such model may impact a student’s  
19 employment in public service jobs and level of em-  
20 ployment (such as whether a student participating in  
21 the Pay It Forward model will go on to part time  
22 or full time employment);

23 (3) evaluate mechanisms through which employ-  
24 ers could provide funds toward the contributions

1 that an employee is required to make under a Pay  
2 It Forward model contribution agreement;

3 (4) examine the long-term solvency and feasi-  
4 bility of an expanded Pay It Forward program; and

5 (5) examine the distributional implications of  
6 allowing students to opt out of participation in a  
7 Pay It Forward model program as compared to re-  
8 quiring all students who are enrolled at a partici-  
9 pating institution to participate in a Pay It Forward  
10 model program.

11 (c) REPORT.—Upon completion of the evaluation de-  
12 scribed under subsection (a), the Secretary shall prepare  
13 and submit a report containing the results of such evalua-  
14 tion to the Committee on Health, Education, Labor, and  
15 Pensions of the Senate, the Committee on Banking, Hous-  
16 ing, and Urban Affairs of the Senate, the Committee on  
17 Finance of the Senate, the Committee on Education and  
18 the Workforce of the House of Representatives, the Com-  
19 mittee on Financial Services of the House of Representa-  
20 tives, and the Committee on Ways and Means of the  
21 House of Representatives.

22 **SEC. 8. EXPANDED IMPLEMENTATION.**

23 The Secretary may expand the Pay It Forward  
24 model, including by developing Pay It Forward model pilot  
25 programs for students pursuing post-baccalaureate de-



1 grees that relate to the medical profession in order to meet  
2 the need for more primary medical care providers, increas-  
3 ing the number or duration of grants to States for car-  
4 rying out a Pay It Forward State pilot program, or estab-  
5 lishing a Federal program based on the Pay It Forward  
6 model, if the Secretary determines that doing so—

7           (1) will not increase the cost to the Federal  
8           Government for carrying out Federal loan programs  
9           under title IV of the Higher Education Act of 1965  
10          (20 U.S.C. 1070 et seq.);

11          (2) may be carried out using amounts available  
12          for the programs under title IV of the Higher Edu-  
13          cation Act of 1965 (20 U.S.C. 1070 et seq.); and

14          (3) is in the best interests of students and the  
15          Nation in advancing national priorities for edu-  
16          cation, health, and economic development.

17 **SEC. 9. WAIVER.**

18          (a) STATE APPLICATION FOR WAIVER.—A State  
19          awarded a grant under this Act may apply to the Sec-  
20          retary to waive a requirement of the grant.

21          (b) SECRETARY AUTHORITY.—The Secretary may  
22          waive any provision in this Act if the Secretary determines  
23          that doing so would be in the best interest of students  
24          and achieve the goals of the Pay It Forward model.

1 **SEC. 10. PAY IT FORWARD FUND.**

2 (a) ESTABLISHMENT OF A FUND.—There is estab-  
3 lished in the Treasury a fund, to be known as the “Pay  
4 It Forward Fund” (referred to in this section as the  
5 “Fund”), to be administered by the Secretary of Edu-  
6 cation, in which all funds received in Pay It Forward con-  
7 tributions under this Act shall be deposited.

8 (b) USE.—The amounts in the Fund shall be made  
9 available to the Secretary of Education in order to carry  
10 out this Act.

11 **SEC. 11. AMOUNTS AVAILABLE FOR PAY IT FORWARD FROM**  
12 **STAFFORD LOAN PROGRAM.**

13 Amounts made available under any Act to carry out  
14 the Federal Direct Stafford Loan Program under part D  
15 of title IV of the Higher Education Act of 1965 (20 U.S.C.  
16 1087a et seq.) shall be available to the Secretary of Edu-  
17 cation to carry out the Pay It Forward program under  
18 this Act.

○

113TH CONGRESS  
2D SESSION

# H. R. 4436

To provide the legal framework necessary for the growth of innovative private financing options for students to fund postsecondary education, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2014

Mr. PETRI introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide the legal framework necessary for the growth of innovative private financing options for students to fund postsecondary education, 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 “Investing in Student  
5 Success Act of 2014”.

1       **TITLE I—AUTHORIZATION OF**  
2       **INCOME SHARE AGREEMENTS**

3       **SEC. 101. PURPOSE; LAWFULNESS OF INSTRUMENTS; PRE-**  
4                                   **EMPTION OF STATE LAW.**

5           (a) PURPOSE.—It is the purpose of this title to au-  
6       thorize individuals to enter into income share agreements  
7       for the purposes of obtaining funds in exchange for agree-  
8       ing to pay to the holder of the contract a specified percent-  
9       age of the individual’s future income.

10          (b) LAWFULNESS OF CONTRACTS; PREEMPTION.—  
11       Any income share agreement that complies with the re-  
12       quirements of section 102 shall be a valid, binding, and  
13       enforceable contract notwithstanding any State law lim-  
14       iting or otherwise regulating assignments of future wages  
15       or other income.

16       **SEC. 102. TERMS AND CONDITIONS OF INCOME SHARE**  
17                                   **AGREEMENT CONTRACTS.**

18          (a) DEFINITION OF INCOME SHARE AGREEMENT.—  
19       For purposes of this title, the term “income share agree-  
20       ment” means an agreement between an individual and any  
21       other person under which the individual commits to pay  
22       a specified percentage of the individual’s future income,  
23       for a specified period of time, in exchange for payments  
24       to or on behalf of such individual for postsecondary edu-  
25       cation, workforce development, or other purposes.

1 (b) TERMS AND CONDITIONS OF AGREEMENTS.—An  
2 income share agreement complies with the requirements  
3 of this section if the contract complies with each of the  
4 following conditions:

5 (1) SPECIFIED PERCENTAGE OF INCOME.—An  
6 income share agreement shall specify the percentage  
7 of future income which the individual will be obli-  
8 gated to pay, except that the contract shall exempt,  
9 at a minimum, the first \$10,000 (adjusted each year  
10 to reflect changes in the Consumer Price Index for  
11 All Urban Consumers published by the Bureau of  
12 Labor Statistics of the Department of Labor for the  
13 most recent 12-month period for which such data  
14 are available) of an individual's income when deter-  
15 mining the individual's obligation for a given year.

16 (2) DEFINITION OF INCOME.—An income share  
17 agreement shall specify the definition of income to  
18 be used for purposes of calculating an individual's  
19 obligation under the contract.

20 (3) AGGREGATE LIMITATION ON OBLIGATION.—  
21 No eligible individual may enter into any income  
22 share agreement if the total percentage of such indi-  
23 vidual's future income that the individual agrees to  
24 pay under that contract, and any other income share

1 agreements of such individual, exceeds 15 percent of  
2 such future income.

3 (4) SPECIFIED DURATION; EXTENSION OF PE-  
4 RIOD.—An income share agreement shall specify the  
5 maximum period of time during which the individual  
6 will be obligated to pay a portion of the individual’s  
7 future income, except that—

8 (A) except as provided in subparagraph  
9 (B), such period may not exceed 360 months;  
10 and

11 (B) such contract may provide that such  
12 period may be extended by the number of years  
13 during which the individual’s income is below  
14 the exemption amount specified in the agree-  
15 ment under paragraph (1).

16 (5) EARLY TERMINATION.—An income share  
17 agreement shall specify the terms and conditions by  
18 which the individual may extinguish the individual’s  
19 obligations under the contract before the end of the  
20 payment period specified in the agreement, based on  
21 the remaining term of such period.

22 (c) REQUIRED DISCLOSURES.—An income share  
23 agreement does not comply with the requirements of this  
24 section unless the individual who is committing to pay fu-  
25 ture income is provided, before entry into such agreement,

1 a disclosure document that clearly and simply discloses  
2 that—

3 (1) the agreement is not a debt instrument, and  
4 that the amount the individual will be required to  
5 pay under the agreement—

6 (A) may be more or less than the amount  
7 provided to the individual; and

8 (B) will vary in proportion to the individ-  
9 ual's future income;

10 (2) the obligations of the individual under the  
11 agreement are not dischargeable under bankruptcy  
12 law;

13 (3) whether the obligations of the individual  
14 under the agreement may be extinguished by accel-  
15 erating payments, and, if so, under what terms;

16 (4) the duration of the individual's obligations  
17 under the agreement (absent such accelerating pay-  
18 ments), including any circumstances under which  
19 the contract would be extended;

20 (5) the percentage of income the individual is  
21 committing to pay and the amount of income that  
22 is exempt from the calculation of the individual's ob-  
23 ligation; and

24 (6) the definition of income to be used for pur-  
25 poses of calculating the individual's obligation.

1 (d) NON-INTERFERENCE.—An income share agree-  
2 ment shall not be construed to give the contract holder  
3 any rights over an individual’s actions—it simply rep-  
4 resents an obligation by the individual pay the specific per-  
5 centage of future income.

6 **SEC. 103. DEFINITIONS.**

7 As used in this title:

8 (1) STATE.—The term “State” includes, in ad-  
9 dition to the several States of the Union, the Com-  
10 monwealth of Puerto Rico, the District of Columbia,  
11 Guam, American Samoa, the Virgin Islands, the  
12 government of the Northern Mariana Islands, and  
13 the Trust Territory of the Pacific Islands.

14 (2) STATE LAW.—The term “State law” means  
15 any law, decision, rule, regulation, or other action  
16 having the effect of a law of any State or any polit-  
17 ical subdivision of a State, or any agency or instru-  
18 mentality of a State or political subdivision of a  
19 State, except that a law of the United States appli-  
20 cable only to the District of Columbia shall be treat-  
21 ed as a State law (rather than a law of the United  
22 States).



1 **SEC. 104. PREEMPTION OF STATE LAW WITH RESPECT TO**  
2 **USURY.**

3 Income share agreements shall not be subject to  
4 State usury laws.

5 **TITLE II—TAX TREATMENT OF**  
6 **INCOME SHARE AGREEMENTS**

7 **SEC. 201. TAX TREATMENT OF INCOME SHARE AGREE-**  
8 **MENTS.**

9 (a) EXCLUSION FROM GROSS INCOME OF INCOME  
10 SHARE AGREEMENT PROCEEDS.—Payments made under  
11 an income share agreement to or on behalf of the indi-  
12 vidual who commits to pay a specified percentage of such  
13 individual's future income to another person under such  
14 agreement shall not be includible in the gross income of  
15 such individual for purposes of the Internal Revenue Code  
16 of 1986.

17 (b) TREATMENT OF PAYMENTS OF FUTURE IN-  
18 COME.—Payments of future income received by another  
19 person under an income share agreement shall be treated  
20 for purposes of the Internal Revenue Code of 1986—

21 (1) first, with respect to so much of such pay-  
22 ments as does not exceed the amount of the pay-  
23 ments to which subsection (a) applies with respect to  
24 such agreement, as a repayment of investment in the  
25 contract which reduces the holder's basis in such  
26 agreement, and

1           (2) second, as interest which is includible in  
2 gross income.

3           (c) INCOME SHARE AGREEMENT.—For purposes of  
4 this title, the term “income share agreement” has the  
5 meaning given such term under title I.

6                           **TITLE III—QUALIFIED**  
7                           **EDUCATION LOAN**

8   **SEC. 301. QUALIFIED EDUCATION LOAN.**

9           (a) IN GENERAL.—Paragraph (1) of section 221(d)  
10 of the Internal Revenue Code of 1986 is amended by add-  
11 ing at the end the following: “Such term includes any in-  
12 come share agreement (as defined in section 102 of the  
13 Investing in Student Success Act of 2014), except that  
14 payments made by the taxpayer during the taxable year  
15 to meet an income share agreement obligation shall not  
16 be taken into account under subsection (a).”.

17           (b) INFORMATION REPORTING NOT REQUIRED.—  
18 Subsection (e) of section 6050S of such Code is amended  
19 by inserting “(without regard to the last sentence there-  
20 of)” after “section 221(d)(1)”.

1 **TITLE IV—FEDERAL INDIVIDUAL**  
2 **ASSISTANCE TREATMENT OF**  
3 **INCOME SHARE AGREEMENTS**

4 **SEC. 401. AMOUNTS RECEIVED NOT TREATED AS INCOME**  
5 **IN CALCULATION OF FINANCIAL NEED**  
6 **UNDER THE HIGHER EDUCATION ACT OF**  
7 **1965.**

8 No portion of any amounts received by an individual  
9 for entering into an income share agreement (as such term  
10 is defined in title I) shall be included as income or assets  
11 in the computation of expected family contribution for any  
12 program funded in whole or in part under the Higher  
13 Education Act of 1965.

14 **TITLE V—INVESTMENT**  
15 **COMPANY TREATMENT**

16 **SEC. 501. BUSINESSES MAKING INCOME SHARE AGREE-**  
17 **MENTS EXCLUDED FROM INVESTMENT COM-**  
18 **PANY TREATMENT.**

19 Section 3(c) of the Investment Company Act of 1940  
20 (15 U.S.C. 80a-3(c)) is amended—

21 (1) in paragraph (4), by inserting after “indus-  
22 trial banking,” the following: “income share agree-  
23 ments (as defined under section 102 of the Investing  
24 in Student Success Act of 2014),”; and

1           (2) in paragraph (5), by inserting “, including  
2           income share agreements” after “services” each  
3           place such term appears.

○