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

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

A BILL

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

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Pay It Forward Col-
lege Affordability Act of 2014”.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Postsecondary education has expanded op-
portunities for people in the United States to qualify
for high-quality jobs and entry into the middle class,
providing clear benefits to the Nation’s economy.
(2) Public investment by the States in higher education has decreased significantly, especially in the past 5 years before the date of enactment of this Act, as a result of the 2008 fiscal collapse.

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

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

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

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

(7) There is a need to encourage a new approach to financing the students’ share of the cost of higher education that will not result in graduates who are overburdened with student debt.
(8) The Pay It Forward model presents a new opportunity for financing and expanding higher education, through the replacement of tuition and mandatory fees with a post-graduation contribution program that establishes the funding for access to higher education for the next generational cohort of students.

(b) PURPOSE.—The purpose of this Act is to test and encourage the development of Pay It Forward model financing programs.

SEC. 3. DEFINITIONS.

In this Act:

(1) ANNUAL INCOME.—The term “annual income” means an amount equal to the sum of—

(A) annual adjusted gross income, as defined in section 62 of the Internal Revenue Code of 1986; and

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

(2) COST OF ATTENDANCE.—The term “cost of attendance” has the meaning given the term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll).

(3) INSTITUTION OF HIGHER EDUCATION.—
(A) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given the term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002), except that for purposes of this Act, an institution of higher education does not include any program of postsecondary education or training, including a degree or certificate program, that is designed to prepare students for entry into a recognized occupation or profession that requires licensing or other established requirements as a pre-condition for entry into such occupation or profession, unless—

(i) the successful completion of the program fully qualifies a student, in the State in which the institution offering the program is located (and in any State in which the institution indicates, through advertising or marketing activities or direct contact with potential students, that a student will be prepared to work in the occupation or profession after successfully completing the program), to—
(I) take any examination required for entry into the recognized occupation or profession in the State, including satisfying all State or professionally mandated programmatic and specialized accreditation requirements, if any; and

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

(ii) the institution offering the program provides timely placement for all of the academically related pre-licensure requirements for entry into the recognized occupation or profession in the State, such as clinical placements, internships, or apprenticeships;

(iii) in the case of State licensing or professionally mandated requirements for entry into the recognized occupation or profession in the State in which the institution offering the program is located (and in any State in which the institution indi-
cates, through advertising or marketing ac-
tivities or direct contact with potential stu-
dents, that a student will be prepared to
work in the occupation or profession after
successfully completing the program) that
require specialized accreditation—

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

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

(aa) establishes, to the satis-
faction of the Secretary of Edu-
cation, that each student who en-
rolls before the program is fully accredited attests of being advised that the program is in a pre-accredited, probation, or show cause status and of being informed of the effect on the student’s eligibility for assistance under this Act and on the student’s ability to satisfy State or professionally mandated requirements for entry into the recognized occupation or profession if full accreditation is delayed, denied, terminated, or withdrawn; and

(bb) publicly and prominently discloses in any advertising, marketing, or recruitment materials and activities for the institution, the institution’s pre-accredited, probation, or show cause status and the implications of such status for prospective students; and

(iv) the institution—
(I) discloses on the application to enroll in the institution that its program does not necessarily satisfy out-of-State requirements, if applicable; and

(II) upon receipt of an application to enroll in the institution, notifies the student, prior to enrollment, if the program in which the student intends to enroll does not satisfy the requirements of the State in which the student is a resident, if applicable.

(B) School, Department, or Program.—The term “institution of higher education” may include a particular school, department, or program within an institution of higher education described in subparagraph (A).

(4) Pay It Forward model.—The term “Pay It Forward model” means a system in which—

(A) the Secretary, a State, or an institution of higher education pays all or part of a participating student’s cost of attendance, but not less than an amount equal to the cost of tuition and mandatory fees, for each such student during some or all of the time that the
student is enrolled at an institution of higher education in order to replace the student’s need to borrow under the Federal Direct Stafford Loan and Federal Direct Unsubsidized Stafford Loan Programs under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.); and

(B) such student signs a contract agreeing to contribute to the Secretary, a State, or an institution of higher education, as the case may be, a certain percentage (not to exceed 5 percent) of the student’s annual income, for a specified number of years upon graduation or when the student ceases to be enrolled at such institution of higher education, except that the specified number of years for which the student agrees to contribute according to such contract shall not exceed 25 years, which shall be known as the “Pay It Forward Contribution Plan”.

(5) SECRETARY.—The term “Secretary” means the Secretary of Education.

(6) T U I T I O N AND M A N D A T O R Y FEES.—The term “tuition and mandatory fees” means tuition and fees normally assessed a student carrying the
same academic workload as determined by the institution of higher education.

SEC. 4. INITIAL STUDIES.

(a) In general.—Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of the Treasury—

(1) and the Director of the Consumer Financial Protection Bureau, shall conduct a study on the feasibility of, and options for, implementing the Pay It Forward model, in a manner that is in the best interests of students; and

(2) shall conduct a study—

(A) on whether the student loan servicer payment program or the Internal Revenue Service income tax withholding mechanism (such as preauthorized automatic electronic funds transfers) of collection for the Pay It Forward model would work best;

(B) on how best to establish a participant’s agreement described under section 5(g)(3), or a similar agreement made under another Pay It Forward model, including what percentage of a participant’s income the participant should be required to contribute and what is an appropriate time period for contribution;
(C) on how the rates of contribution under the Pay It Forward model may differ—

(i) according to different income levels; and

(ii) based on whether the student pursues a graduate or professional education program immediately after completing their undergraduate education or at a future time;

(D) on how best to streamline the collection process and ensure compliance; and

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

(b) REPORT.—Not later than 30 days after the completion of the studies described in subsection (a), the Secretary shall prepare and submit a report containing the results of the initial studies described in subsection (a), to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Finance of the Senate, the Committee on Education and the Workforce of the House of Representatives, the Committee on Financial Services of the House of Representatives, and the Committee on Ways and Means of the House of Representatives.
SEC. 5. GRANTS FOR STATE PAY IT FORWARD PILOT PROGRAM.

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

(b) APPLICATION; DURATION.—

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

(2) DURATION.—Grants awarded under this section shall be for a period of not less than 10 years and not more than 25 years and the Secretary shall make grant funds available to each State on an annual basis.
(c) **State Contribution Requirement.**—A State receiving a grant under this section shall provide, either directly or through private contributions, non-Federal funds for each award year in an amount that is not less than the greater of—

(1) the difference between—

(A) the amount for an award year that the State has agreed to pay for all students participating in the State Pay It Forward Contribution Plan described in subsection (e); and

(B) the amount of the Federal funds described in subsection (e)(2); or

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

(d) **Maintenance of Effort.**—Each State receiving a grant under this section for a fiscal year shall provide the Secretary with an assurance that the aggregate expenditures by the State, from funds derived from non-Federal sources, for the contribution to higher education costs, including student loans and grants for higher education for each fiscal year for which a grant is awarded under this section (excluding funds for a State Pay It Forward model) are not less than the aggregate expenditures by the State for the contribution to higher education costs,
including student loans and grants for higher education, for the fiscal year preceding the first fiscal year for which a grant was awarded to the State under this section, as adjusted for inflation using the Consumer Price Index for All Urban Consumers published by the Department of Labor (CPI–U).

(e) STATE PILOT PROGRAM.—

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

(A) select eligible institutions, in accordance with subsection (f), for participation in the program;

(B) in coordination with the Secretary, establish an application and enrollment process through which a student who is enrolled at a participating eligible institution who wishes to participate in the program, and fulfills the requirements of the enrollment process, as determined by the State, shall be enrolled in the Pay It Forward Contribution Plan, subject to paragraph (3);
(C) provide each student at each participating eligible institution with a written notice—

(i) that such student has the option to participate, or to decline to participate, in the Pay It Forward Contribution Plan on an annual renewable basis, subject to paragraph (3);

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

(iii) of the terms and conditions of the Pay It Forward Contribution Plan, as described in subsection (g);

(D) ensure that, subject to subsection (g)(5)(A) and in accordance with paragraphs (4) and (5) of subsection (g), an eligible student’s cost of attendance will be reduced by the amount of any assistance considered estimated financial assistance, as defined in section 428(a)(2)(C) of the Higher Education Act of 1965 (20 U.S.C. 1078(a)(2)(C)) prior to the awarding of aid under the Pay It Forward Contribution Plan toward the student’s cost of attendance;
(E) award funds, from amounts made available under subsection (e), any other State funds, and amounts made available under paragraph (2)(B) to pay—

(i) each participating institution an amount equal to the tuition and mandatory fees for each student at that institution who is enrolled in the Pay It Forward Contribution Plan, as described in subsection (g), except that such amount shall, for each student, not exceed the lesser of—

(I) the amount of the tuition and mandatory fees for each such student at the most expensive public institution of higher education in the State for the type of institution the participating student attends (including a 4-year institution, 2-year institution, or 1-year institution) for that award year; or

(II) the cost of attendance for each such student to attend the institution at which the student is enrolled; and
(ii) each participating student any additional costs of attendance that have been agreed to in the student’s contract described in subsection (g), except that such additional costs shall be in an amount such that the sum of such additional costs and the amount of tuition and fees described in clause (i) shall, for each such student, not exceed the lesser of—

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

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

(2) FEDERAL FUNDS.—The Secretary shall pay each State receiving a grant under this section, for each award year for the purpose of carrying out
paragraph (1)(E), an amount equal to the product of—

(A) the number of students in the State that are enrolled in the Pay It Forward Contribution Plan for that award year; multiplied by

(B) an amount equal to the sum of—

(i) the maximum amount that a student is eligible to receive through a Federal Direct Stafford loan under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) for that award year; plus

(ii) the maximum amount that a student is eligible to receive through a Federal Direct Unsubsidized Stafford loan under part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1087a et seq.) for that award year.

(f) ELIGIBLE INSTITUTIONS.—

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

(A) submits an application to the State at such time, in such manner, and containing such
information as the State may reasonably re-
quire;

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

(C) agrees to maintain—

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

(ii) in the case of a department,
school, or program within an institution of
higher education, maintain the level of aid
described in clause (i) on a department,
school, or program-wide basis.
(2) **Selection of Participating Institutions.** —

(A) **In General.** — If a sufficient number of eligible institutions in a State receiving a grant under this section wish to participate in the Pay It Forward Contribution Plan, such State shall establish methods for selecting eligible institutions to participate, or otherwise set standards for participation, in such a way that meets the requirements of this paragraph and maximizes the utility of the research that results from the evaluation of the Pay It Forward Contribution Plan.

(B) **Criteria.** — In selecting eligible institutions under subparagraph (A), the State shall consider the extent to which selected institutions will represent varied geographic locations and types of institutions (such as community colleges, institutions that offer 4-year programs, or other variations in the types of institutions that are selected).

(C) **Preference.** — In selecting eligible institutions under subparagraph (A), the State shall give preference to eligible institutions that have a history of making an effort to reduce or
hold constant tuition and mandatory fees and
cost of attendance or have a plan to reduce or
hold constant tuition and mandatory fees and
cost of attendance, as determined by the State.

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

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

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

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

(i) 4 years; or

(ii) another period of time (such as a certain number of college credits or academic years completed) that the State, the institution, and the student shall determine and specify in the agreement described under paragraph (3); and

(B) a student who attends a participating eligible institution and has applied for and enrolled in the Pay It Forward Contribution Plan any additional costs of attendance that are agreed to by the State, the institution, and the student and are established in the contract described in paragraph (3), except that such additional costs shall be in an amount such that the sum of such additional costs and the amount of
tuition and fees described in subparagraph (A) shall, for each such student and for each award year, not exceed the amount of the tuition and mandatory fees for a student at the most expensive public institution of higher education in the State for the type of institution the participating student attends (including a 4-year institution, 2-year institution, or 1-year institution) for that award year;

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

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

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

(3) the student shall sign a contract agreement, which shall include—
(A) the period of time (such as a certain number of college credits or academic years completed) during which the State will pay the institution that the student attends not less than an amount equal to the cost of tuition and mandatory fees that the student requests to have provided through the Pay It Forward Contribution Plan while the student is enrolled at such participating eligible institution; and

(B) any additional costs of attendance that the State agrees to pay for such student through the Pay It Forward Contribution Plan while the student is enrolled at such participating eligible institution; and

(C) a statement that the student will contribute to the State a certain percentage (not to exceed 5 percent) of the student’s annual income for a specified number of years upon graduation from such institution of higher education, successful completion of the student’s course of study, or when such student ceases to be enrolled at such institution of higher education, as determined by the State, and the student shall be required to begin making such contributions on the date that is the later of—
(i) 1 calendar year after graduation from such institution of higher education, successful completion of the student’s course of study, or when such student ceases to be enrolled at such institution of higher education, as determined by the State; or

(ii) 1 calendar year after the completion of a year that the student is enrolled in the Pay It Forward Contribution Plan;

(4) the student shall continue to be eligible to obtain any grants, scholarships, or funds that do not have to be repaid (including Federal Pell Grants or any other Federal, State, or institutional grant money) that the student would otherwise be eligible to receive if the student was not a participant in the Pay It Forward Contribution Plan and that are applied toward the student’s tuition and mandatory fees at the eligible institution, and the amount of such grants, scholarships, or funds shall be deducted from the amount that the State would otherwise pay toward the student’s tuition and mandatory fees under the Pay It Forward Contribution Plan, thereby proportionately reducing the percentage of a participating student’s annual income that the student
will be required to contribute or the duration of the
student’s contribution period, as described under
paragraph (3);

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

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

(B) the amount of such loans shall be de-
ducted from the amount that the State would
otherwise pay toward the student’s tuition and
mandatory fees under the Pay It Forward Con-
tribution Plan, thereby proportionately reducing
the percentage of a participating student’s an-
nual income that the student will be required to
contribute or the duration of the student’s con-
tribution period, as described under paragraph (3); and

(6) if the student obtains Federal student loans, such student shall remain eligible for applicable Federal loan repayment, forgiveness, or similar programs regarding such Federal student loans to the same extent that the student would be eligible for such repayment, forgiveness, or similar programs if the student were not also participating in the Pay It Forward Contribution Plan.

(h) METHOD OF CONTRIBUTION COLLECTION.—The Secretary, in consultation with the Secretary of the Treasury or a designee of the Secretary of the Treasury, shall work with appropriate State agencies to develop an efficient mechanism for students who enroll in the Pay It Forward Contribution Plan, including using existing student loan repayment structures, wage withholding (such as preauthorized automatic electronic funds transfers), or other suitable methods as the respective State agencies may determine and as approved by the Secretary.

(i) STATE REPORT.—Each State receiving a grant under this section shall annually prepare and submit a report to the Secretary containing such information about the grant program as the Secretary may require.
SEC. 6. ADVISORY COUNCIL.

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

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

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

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

(b) MEMBERS OF THE COUNCIL.—The technical advisory council established under this section shall include not more than 11 members, of whom—

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

(2) not less than 2 members shall have expertise in quantitative program evaluation;

(3) not less than 2 members shall be student advocates; and
(4) not less than 2 members shall be experts in budgetary and financial matters.

(c) Report.—The technical advisory council established under this section shall prepare and submit a report to the Secretary containing the recommendations described in subsection (a).

SEC. 7. IMPLEMENTATION STUDY.

(a) Initial Evaluation.—Not later than 5 years after the establishment of the State Pay It Forward models under section 5, the Secretary shall, after consideration of the advisory council recommendations regarding how to evaluate the Pay It Forward Contribution Plan described under section 6(a), conduct an initial evaluation of the Pay It Forward Contribution Plan, which may include an evaluation of—

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

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

(3) how best to establish a student’s agreement described under section 5(g)(3), or a similar agreement made under another Pay It Forward model, including what percentage of a student’s income the
student should be required to contribute and what is
an appropriate time period for contribution;

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

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

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

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

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

(3) evaluate mechanisms through which employ-
ers could provide funds toward the contributions
that an employee is required to make under a Pay It Forward model contribution agreement;

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

(5) examine the distributional implications of allowing students to opt out of participation in a Pay It Forward model program.

(c) REPORT.—Upon completion of the evaluation described under subsection (a), the Secretary shall prepare and submit a report containing the results of such evaluation to the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Committee on Finance of the Senate, the Committee on Education and the Workforce of the House of Representatives, the Committee on Financial Services of the House of Representatives, and the Committee on Ways and Means of the House of Representatives.

SEC. 8. EXPANDED IMPLEMENTATION.

The Secretary may expand the Pay It Forward model, including by developing Pay It Forward model pilot programs for students pursuing post-baccalaureate de-
degrees that relate to the medical profession in order to meet
the need for more primary medical care providers, increasing
the number or duration of grants to States for carrying out a Pay It Forward State pilot program, or establishing a Federal program based on the Pay It Forward model, if the Secretary determines that doing so—

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

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

(3) is in the best interests of students and the Nation in advancing national priorities for education, health, and economic development.

SEC. 9. WAIVER.

(a) STATE APPLICATION FOR WAIVER.—A State awarded a grant under this Act may apply to the Secretary to waive a requirement of the grant.

(b) SECRETARY AUTHORITY.—The Secretary may waive any provision in this Act if the Secretary determines that doing so would be in the best interest of students and achieve the goals of the Pay It Forward model.
SEC. 10. PAY IT FORWARD FUND.

(a) Establishment of a Fund.—There is established in the Treasury a fund, to be known as the “Pay It Forward Fund” (referred to in this section as the “Fund”), to be administered by the Secretary of Education, in which all funds received in Pay It Forward contributions under this Act shall be deposited.

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

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

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

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

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.

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 “Investing in Student Success Act of 2014”.
TITLE I—AUTHORIZATION OF
INCOME SHARE AGREEMENTS

SEC. 101. PURPOSE; LAWFULNESS OF INSTRUMENTS; PREEMPTION OF STATE LAW.

(a) Purpose.—It is the purpose of this title to authorize individuals to enter into income share agreements for the purposes of obtaining funds in exchange for agreeing to pay to the holder of the contract a specified percentage of the individual’s future income.

(b) Lawfulness of Contracts; Preemption.—Any income share agreement that complies with the requirements of section 102 shall be a valid, binding, and enforceable contract notwithstanding any State law limiting or otherwise regulating assignments of future wages or other income.

SEC. 102. TERMS AND CONDITIONS OF INCOME SHARE AGREEMENT CONTRACTS.

(a) Definition of Income Share Agreement.—For purposes of this title, the term “income share agreement” means 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.
(b) Terms and Conditions of Agreements.—An income share agreement complies with the requirements of this section if the contract complies with each of the following conditions:

(1) Specified Percentage of Income.—An income share agreement shall specify the percentage of future income which the individual will be obligated to pay, except that the contract shall exempt, at a minimum, the first $10,000 (adjusted each year to reflect changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which such data are available) of an individual’s income when determining the individual’s obligation for a given year.

(2) Definition of Income.—An income share agreement shall specify the definition of income to be used for purposes of calculating an individual’s obligation under the contract.

(3) Aggregate Limitation on Obligation.—No eligible individual may enter into any income share agreement if the total percentage of such individual’s future income that the individual agrees to pay under that contract, and any other income share...
agreements of such individual, exceeds 15 percent of such future income.

(4) **Specified duration; extension of period.**—An income share agreement shall specify the maximum period of time during which the individual will be obligated to pay a portion of the individual’s future income, except that—

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

(B) such contract may provide that such period may be extended by the number of years during which the individual’s income is below the exemption amount specified in the agreement under paragraph (1).

(5) **Early termination.**—An income share agreement shall specify the terms and conditions by which the individual may extinguish the individual’s obligations under the contract before the end of the payment period specified in the agreement, based on the remaining term of such period.

(c) **Required disclosures.**—An income share agreement does not comply with the requirements of this section unless the individual who is committing to pay future income is provided, before entry into such agreement,
a disclosure document that clearly and simply discloses that—

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

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

(B) will vary in proportion to the individual’s future income;

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

(3) whether the obligations of the individual under the agreement may be extinguished by accelerating payments, and, if so, under what terms;

(4) the duration of the individual’s obligations under the agreement (absent such accelerating payments), including any circumstances under which the contract would be extended;

(5) the percentage of income the individual is committing to pay and the amount of income that is exempt from the calculation of the individual’s obligation; and

(6) the definition of income to be used for purposes of calculating the individual’s obligation.
(d) NON-INTERFERENCE.—An income share agree-
ment shall not be construed to give the contract holder
any rights over an individual’s actions—it simply rep-
resents an obligation by the individual pay the specific per-
centage of future income.

SEC. 103. DEFINITIONS.

As used in this title:

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

(2) STATE LAW.—The term “State law” means
any law, decision, rule, regulation, or other action
having the effect of a law of any State or any polit-
ic subdivision of a State, or any agency or instru-
mentality of a State or political subdivision of a
State, except that a law of the United States appli-
cable only to the District of Columbia shall be treat-
ed as a State law (rather than a law of the United
States).
SEC. 104. PREEMPTION OF STATE LAW WITH RESPECT TO USURY.

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

TITLE II—TAX TREATMENT OF INCOME SHARE AGREEMENTS

SEC. 201. TAX TREATMENT OF INCOME SHARE AGREEMENTS.

(a) Exclusion From Gross Income of Income Share Agreement Proceeds.—Payments made under an income share agreement to or on behalf of the individual who commits to pay a specified percentage of such individual’s future income to another person under such agreement shall not be includible in the gross income of such individual for purposes of the Internal Revenue Code of 1986.

(b) Treatment of Payments of Future Income.—Payments of future income received by another person under an income share agreement shall be treated for purposes of the Internal Revenue Code of 1986—

(1) first, with respect to so much of such payments as does not exceed the amount of the payments to which subsection (a) applies with respect to such agreement, as a repayment of investment in the contract which reduces the holder’s basis in such agreement, and
(2) second, as interest which is includible in gross income.

(c) Income Share Agreement.—For purposes of this title, the term “income share agreement” has the meaning given such term under title I.

TITLE III—QUALIFIED EDUCATION LOAN

SEC. 301. QUALIFIED EDUCATION LOAN.

(a) In General.—Paragraph (1) of section 221(d) of the Internal Revenue Code of 1986 is amended by adding at the end the following: “Such term includes any income share agreement (as defined in section 102 of the Investing in Student Success Act of 2014), except that payments made by the taxpayer during the taxable year to meet an income share agreement obligation shall not be taken into account under subsection (a).”.

(b) Information Reporting Not Required.—Subsection (e) of section 6050S of such Code is amended by inserting “(without regard to the last sentence thereof)” after “section 221(d)(1)”.

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TITLE IV—FEDERAL INDIVIDUAL
ASSISTANCE TREATMENT OF
INCOME SHARE AGREEMENTS

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

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

TITLE V—INVESTMENT
COMPANY TREATMENT

SEC. 501. BUSINESSES MAKING INCOME SHARE AGREEMENTS EXCLUDED FROM INVESTMENT COMPANY TREATMENT.

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

(1) in paragraph (4), by inserting after “industrial banking,” the following: “income share agreements (as defined under section 102 of the Investing in Student Success Act of 2014),”; and
(2) in paragraph (5), by inserting ‘‘, including income share agreements’’ after ‘‘services’’ each place such term appears.