To amend the Higher Education Act of 1965 to require the standards for accreditation of an institution of higher education to assess the institution’s adoption of admissions practices that refrain from preferential treatment in admissions based on an applicant’s relationship to alumni of, or donors to, the institution, to authorize a feasibility study on data collection, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Young (for himself and Mr. Kaine) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Higher Education Act of 1965 to require the standards for accreditation of an institution of higher education to assess the institution’s adoption of admissions practices that refrain from preferential treatment in admissions based on an applicant’s relationship to alumni of, or donors to, the institution, to authorize a feasibility study on data collection, and for other purposes.

1 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 “Merit-Based Educational Reforms and Institutional Transparency Act” or the “MERIT Act”.

SEC. 2. ASSESSMENT OF ADMISSIONS PRACTICES.

(a) IN GENERAL.—

(1) STANDARDS FOR ACCREDITATION.—Section 496(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1099b(a)(5)) is amended—

(A) by redesignating subparagraphs (G), (H), (I), and (J), as subparagraphs (H), (I), (J), and (K), respectively;

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

“(G) adoption of admissions practices that refrain from any manner of preferential treatment in the admission process to applicants on the basis of the applicant’s relationship to—

“(i) alumni of the institution; or

“(ii) donors to the institution;”;

(C) in subparagraph (H), as redesignated under subparagraph (A), by striking “and admissions”; and

(D) in the flush matter at the end, by striking “subparagraphs (A), (H), and (J)” and inserting “subparagraphs (A), (I), and (K)”.

(2) Preferential Treatment Definition.—
Section 496 of the Higher Education Act of 1965
(20 U.S.C. 1099b) is amended by adding at the end
the following:

“(r) Preferential Treatment.—For the purpose
of subsection (a)(5)(G), the term ‘preferential treatment’
means making an admissions decision or awarding tangi-
gible education benefits where an applicant’s relationship
with an alumni of, or donor to, the deciding institution
serves as the determinative factor.”.

(b) Rule of Construction.—Section 496(p) of the
Higher Education Act of 1965 (20 U.S.C. 1099b(p)) is
amended—

(1) by redesignating paragraphs (1) and (2) as
subparagraphs (A) and (B), respectively, and mov-
ing the margins of such subparagraphs (as so redes-
ignated) 2 ems to the right;

(2) by striking “Nothing in subsection (a)(5)
shall be construed to restrict the ability of” and in-
serting the following:

“(1) In General.—Nothing in subsection
(a)(5) shall be construed to restrict the ability of”; and

(3) by adding at the end of the following:
“(2) DEMONSTRATED INTEREST.—Nothing in subparagraph (G) of subsection (a)(5) shall be construed to prevent institutions from considering the demonstrated interest of an applicant as a factor in admissions decisions if—

“(A) the criteria for assessing demonstrated interest are clearly defined and made publicly available;

“(B) the applicant is provided the opportunity to explain why they have a demonstrated interest in the institution, which may be informed by lived experiences, values, attributes, and faith; and

“(C) the opportunities to demonstrate interest are equally accessible to all applicants, regardless of their financial resources, alumni affiliation, or donor affiliation.

“(3) FAITH-BASED INSTITUTIONS.—Nothing in subparagraph (G) of subsection (a)(5) shall be construed to inhibit the right of a religious institution to make admissions decisions consistent with the institution’s faith-based values.”.

(e) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of completion of the negotiated rule-
making process under section 492 of the Higher Education Act of 1965 (20 U.S.C. 1098a) with respect to the amendments made by this section, and biennially thereafter, the Secretary of Education shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives a report that identifies the efforts taken to ensure compliance with the requirements of this section and the amendments made by this section, including—

(A) any technical assistance the Secretary has provided;

(B) any regulatory guidance the Secretary has issued; and

(C) any compliance monitoring the Secretary has conducted.

(2) PUBLIC AVAILABILITY.—Each report described under paragraph (1) shall be made available to the public.

SEC. 3. FEASIBILITY STUDY TO IMPROVE DATA COLLECTION.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Education shall explore the feasibility of working with the National
Student Clearinghouse to establish a third-party method to collect and produce institution-level analysis of data on the impact of an admissions decision based on an applicant’s relationship with an alumni of, or donor to, the deciding institution, and how such data reported to the National Student Clearinghouse could be secured, while considering the following:

(1) Whether data reported to the National Student Clearinghouse can accurately capture the impact and prevalence of admitting students with alumni or donor affiliations at various institutions.

(2) Whether institutions have clear and defined policies regarding admitting students with alumni or donor affiliations that can be transparently reported to the National Student Clearinghouse.

(3) Whether this new data stream can be integrated with reporting to the Integrated Postsecondary Education Data System (IPEDS) while ensuring that the quality of data remains consistent or improves compared to the data provided through IPEDS.

(4) Whether reporting this new data might alter the current interaction between institutions and the National Student Clearinghouse.
(5) Whether reporting such data can maintain confidentiality, especially regarding private donations and donor identities, while still producing accurate measures of institutional practices.

(6) Whether the National Student Clearinghouse can satisfy data reporting requirements without transferring any disaggregated data that would be personally identifiable to the Department of Education.

(7) Whether the data can be reported in such a way that it separates students with familial ties to alumni from those admitted due to direct donor affiliations.

(8) Whether there’s a distinction in admissions criteria for legacy and donor-affiliated applicants compared to traditional applicants.

(b) Rule of Construction.—Nothing in this section shall be construed to authorize the development of a nationwide database of personally identifiable information on individuals involved in studies or other collections of data under this Act or an amendment made by this Act.