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Union Calendar No. 137

107TH CONGRESS
1ST SESSION

H. R. 1992

[Report No. 107–225]

To amend the Higher Education Act of 1965 to expand the opportunities for higher education via telecommunications.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2001

Mr. ISAKSON (for himself, Mr. BOEHNER, Mr. MCKEON, Mr. CASTLE, and Mr. GOODLATTE) introduced the following bill; which was referred to the Committee on Education and the Workforce

OCTOBER 2, 2001

Additional sponsors: Mr. PASCRELL, Mr. GRAHAM, Mr. TANCREDO, Mr. ANDREWS, Mr. SMITH of Texas, Mr. UPTON, Mr. HINOJOSA, Mr. GOODE, Mr. DEUTSCH, Mr. SCHROCK, Mr. SCHAFFER, Mrs. ROUKEMA, Mr. HOEKSTRA, Mr. GREENWOOD, Mr. NORWOOD, Mr. KELLER, Mr. TERRY, Mr. BACA, Mr. BURTON of Indiana, Mr. PAUL, Ms. HART, Mr. PLATTS, Mr. PETRI, Mr. SHIMKUS, Mr. KILDEE, Mr. HORN, Mr. DEMINT, Mrs. BIGGERT, Mr. OSBORNE, Mr. DOYLE, Mr. STRICKLAND, and Mr. RAMSTAD

OCTOBER 2, 2001

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend the Higher Education Act of 1965 to expand

the opportunities for higher education via telecommunications.

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 " Internet Equity and Education Act of 2001".~~

~~SEC. 2. EXCEPTION TO 50 PERCENT CORRESPONDENCE COURSE LIMITATIONS.~~

~~(a) DEFINITION OF INSTITUTION OF HIGHER EDUCATION FOR TITLE IV PURPOSES.—Section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)) is amended by adding at the end the following new paragraph:~~

~~"(7) EXCEPTION TO LIMITATION BASED ON COURSE OF STUDY.—Courses offered via telecommunications (as defined in section 484(*l*)(4)) shall not be considered to be correspondence courses for purposes of paragraph (3)(A) for any institution that—~~

~~"(A) is participating in either or both of the loan programs under part B or D of title IV on the date of enactment of the Internet Equity and Education Act of 2001; and~~

~~"(B) has a cohort default rate (as determined under section 435(m)) for each of the 3~~

~~most recent fiscal years for which data are available that is less than 10 percent.''.~~

~~(b) DEFINITION OF ELIGIBLE STUDENT.—Section 484(*l*)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(*l*)(1)) is amended by adding at the end the following new subparagraph:~~

~~''(C) EXCEPTION TO 50 PERCENT LIMITATION.—Notwithstanding the 50 percent limitation in subparagraph (A), a student enrolled in a course of instruction described in such subparagraph shall not be considered to be enrolled in correspondence courses if the student is enrolled in an institution that—~~

~~''(i) is participating in either or both of the loan programs under part B or D of title IV on the date of enactment of the Internet Equity and Education Act of 2001; and~~

~~''(ii) has a cohort default rate (as determined under section 435(m)) for each of the 3 most recent fiscal years for which data are available that is less than 10 percent.''.~~

~~SEC. 3. DEFINITION OF ACADEMIC YEAR.~~

~~Section 481(a)(2) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)(2)) is amended by inserting after the first sentence the following new sentence: ''For the purposes of any program under this title (whether a standard or nonstandard term program), a week of instruction is defined as a week in which at least one day of instruction, examination, or preparation for examination occurs.''.~~

~~SEC. 4. INCENTIVE COMPENSATION.~~

~~(a) AMENDMENT.—Part G of title IV of the Higher Education Act of 1965 is amended by inserting after section 484B (20 U.S.C. 1091b) the following new section:~~

~~''SEC. 484C. INCENTIVE COMPENSATION PROHIBITED.~~

~~''No institution of higher education participating in a program under this title shall make any payment of a commission, bonus, or other incentive, non-salary payment, based directly on success in securing enrollments or financial aid, to any person or entity directly engaged in student recruiting or admission activities, or making decisions regarding the award of student financial assistance, except that this section shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.''.~~

~~(b) CONFORMING AMENDMENT.—Paragraph (20) of section 487(a) (20 U.S.C. 1094(a)(20)) is repealed.~~

~~(c) TECHNICAL AMENDMENT.—Section 487(c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1094(c)(1)) is amended by striking "paragraph (2)(B)" each place it appears in subparagraphs (F) and (H) and inserting "paragraph (3)(B)".~~

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Equity and Education Act of 2001".

SEC. 2. EXCEPTION TO 50 PERCENT CORRESPONDENCE COURSE LIMITATIONS.

(a) DEFINITION OF INSTITUTION OF HIGHER EDUCATION FOR TITLE IV PURPOSES.—Section 102(a) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)) is amended by adding at the end the following new paragraph:

"(7) EXCEPTION TO LIMITATION BASED ON COURSE OF STUDY.—Courses offered via telecommunications (as defined in section 484(l)(4)) shall not be considered to be correspondence courses for purposes of subparagraph (A) or (B) of paragraph (3) for any institution that—

"(A) is participating in either or both of the loan programs under part B or D of title IV on the date of enactment of the Internet Equity and Education Act of 2001;

"(B) has a cohort default rate (as determined under section 435(m)) for each of the 3 most recent fiscal years for which data are available that is less than 10 percent; and

"(C)(i) has notified the Secretary, in a form and manner prescribed by the Secretary (including such information as the Secretary may require to meet the requirements of clause (ii)), of the election by such institution to qualify as an institution of higher education by means of the provisions of this paragraph; and

"(ii) the Secretary has not, within 90 days after such notice, and the receipt of any information required under clause (i), notified the institution that the election by such institution would pose a significant risk to Federal funds and the integrity of programs under title IV.".

(b) DEFINITION OF ELIGIBLE STUDENT.—Section 484(l)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(l)(1)) is amended by adding at the end the following new subparagraph:

"(C) EXCEPTION TO 50 PERCENT LIMITATION.—Notwithstanding the 50 percent limitation in subparagraph (A), a student enrolled in a course of instruction described in such sub-

paragraph shall not be considered to be enrolled in correspondence courses if the student is enrolled in an institution that—

"(i) is participating in either or both of the loan programs under part B or D of title IV on the date of enactment of the Internet Equity and Education Act of 2001;

"(ii) has a cohort default rate (as determined under section 435(m)) for each of the 3 most recent fiscal years for which data are available that is less than 10 percent; and

"(iii)(I) has notified the Secretary, in form and manner prescribed by the Secretary (including such information as the Secretary may require to meet the requirements of subclause (II)), of the election by such institution to qualify its students as eligible students by means of the provisions of this subparagraph; and

"(II) the Secretary has not, within 90 days after such notice, and the receipt of any information required under subclause (I), notified the institution that the election by such institution would pose a significant

risk to Federal funds and the integrity of programs under title IV.".

SEC. 3. DEFINITION OF ACADEMIC YEAR.

Section 481(a) of the Higher Education Act of 1965 (20 U.S.C. 1088(a)) is amended by adding at the end the following new paragraph:

"(3) For the purposes of any eligible program, a week of instruction is defined as a week in which at least one day of regularly scheduled instruction or examinations occurs, or at least one day of study for final examinations occurs after the last scheduled day of classes. For an educational program using credit hours, but not using a semester, trimester, or quarter system, an institution of higher education shall notify the Secretary, in the form and manner prescribed by the Secretary, if the institution plans to offer an eligible program of instruction of less than 12 hours of regularly scheduled instruction, examinations, or preparation for examinations for a week of instructional time.".

SEC. 4. INCENTIVE COMPENSATION.

(a) AMENDMENT.—Part G of title IV of the Higher Education Act of 1965 is amended by inserting after section 484B (20 U.S.C. 1091b) the following new section:

"SEC. 484C. INCENTIVE COMPENSATION PROHIBITED.

"(a) PROHIBITION.—No institution of higher education participating in a program under this title shall

make any payment of a commission, bonus, or other incentive payment, based directly on success in securing enrollments or financial aid, to any person or entity directly engaged in student recruiting or admission activities, or making decisions regarding the award of student financial assistance, except that this section shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

"(b) EXCEPTIONS.—Subsection (a) does not apply to payment of a commission, bonus, or other incentive payment—

"(1) pursuant to any contract with any third-party service provider that has no control over eligibility for admission or enrollment or the awarding of financial aid at the institution of higher education, provided that no employee of the third-party service provider is paid a commission, bonus, or other incentive payment based directly on success in securing enrollments or financial aid; or

"(2) to persons or entities for success in securing agreements, contracts, or commitments from employers to provide financial support for enrollment by their employees in an institution of higher education or for activities that may lead to such agreements, contracts, or commitments.

"(c) EXCEPTION FOR FIXED COMPENSATION.—For purposes of subsection (a), a person shall not be treated as receiving incentive compensation when such person receives a fixed compensation that is paid regularly for services and that is adjusted no more frequently than every six months.".

(b) CONFORMING AMENDMENT.—Paragraph (20) of section 487(a) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)(20)) is repealed.

(c) TECHNICAL AMENDMENT.—Section 487(c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1094(c)(1)) is amended by striking "paragraph (2)(B)" each place it appears in subparagraphs (F) and (H) and inserting "paragraph (3)(B)".

SEC. 5. EVALUATION AND REPORT.

(a) INFORMATION FROM INSTITUTIONS.—

(1) INSTITUTIONS COVERED BY REQUIREMENT.—The requirements of paragraph (2) apply to any institution of higher education that—

(A) has notified the Secretary of Education of an election to qualify for the exception to limitation based on course of study in section 102(a)(7) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)(7)) or the exception to the 50 percent limitation in section 484(l)(1)(C) of such Act (20 U.S.C. 1091(l)(1)(C));

(B) has notified the Secretary under section 481(a)(3) of such Act (20 U.S.C. 1088(a)(3)); or

(C) contracts with outside parties for—

(i) the delivery of distance education programs;

(ii) the delivery of programs offered in nontraditional formats; or

(iii) the purpose of securing the enrollment of students.

(2) REQUIREMENTS.—Any institution of higher education to which this paragraph applies shall comply, on a timely basis, with the Secretary of Education's reasonable requests for information on changes in—

(A) the amount or method of instruction offered;

(B) the types of programs or courses offered;

(C) enrollment by type of program or course;

(D) the amount and types of grant, loan, or work assistance provided under title IV of the Higher Education Act of 1965 that is received by students enrolled in programs conducted in nontraditional formats; and

(E) outcomes for students enrolled in such courses or programs.

(b) REPORT BY SECRETARY REQUIRED.—The Secretary of Education shall conduct by grant or contract a study of, and by March 31, 2003, submit to the Congress, a report on—

(1) the effect that the amendments made by this Act have had on—

(A) the ability of institutions of higher education to provide distance learning opportunities to students; and

(B) program integrity;

(2) with respect to distance education or correspondence education courses at institutions of higher education to which the information requirements of subsection (a)(2) apply, changes from year-to-year in—

(A) the amount or method of instruction offered and the types of programs or courses offered;

(B) the number and type of students enrolled in distance education or correspondence education courses;

(C) the amount of student aid provided to such students, in total and as a percentage of the institution's revenue; and

(D) outcomes for students enrolled in distance education or correspondence education courses, including graduation rates, job placement rates, and loan delinquencies and defaults;

(3) any reported and verified claim of inducement to participate in the student financial aid programs and any violation of the Higher Education Act of 1965, including any actions taken by the Department of Education against the violator; and

(4) any further improvements that should be made to the provisions amended by this Act (and related provisions), in order to accommodate nontraditional educational opportunities in the Federal student assistance programs while ensuring the integrity of those programs.

SEC. 6. LEARNING ANYTIME ANYWHERE PARTNERSHIPS.

Section 420J of the Higher Education Act of 1965 (20 U.S.C. 1070f–6) is amended by adding at the end the following new sentence: "If for any fiscal year funds are not appropriated pursuant to this section, funds available under part B of title VII, relating to the Fund for the Improvement of Postsecondary Education, may be made avail-

able for continuation grants for any grant recipient under this subpart.".

SEC. 7. IMPLEMENTATION.

(a) NO DELAY IN EFFECTIVE DATE.—Section 482(c) of the Higher Education Act of 1965 (20 U.S.C. 1089(c)) shall not apply to the amendments made by this Act.

(b) IMPLEMENTING REGULATIONS.—Section 492 of the Higher Education Act of 1965 (20 U.S.C. 1098a) shall not apply to the amendments made by sections 2 and 3 of this Act.

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