

117TH CONGRESS  
1ST SESSION

# H. R. 1222

To amend the Higher Education Act of 1965 regarding proprietary institutions of higher education in order to protect students and taxpayers.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 2021

Mr. COHEN (for himself, Ms. LEE of California, and Ms. ESHOO) introduced the following bill; which was referred to the Committee on Education and Labor

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## A BILL

To amend the Higher Education Act of 1965 regarding proprietary institutions of higher education in order to protect students and taxpayers.

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 “Protecting Our Stu-  
5 dents and Taxpayers Act of 2021” or “POST Act of  
6 2021”.

7 **SEC. 2. 85/15 RULE.**

8 (a) IN GENERAL.—Section 102(b) of the Higher  
9 Education Act of 1965 (20 U.S.C. 1002(b)) is amended—

1 (1) in paragraph (1)—

2 (A) in subparagraph (D), by striking  
3 “and” after the semicolon;

4 (B) in subparagraph (E), by striking the  
5 period at the end and inserting “; and”; and

6 (C) by adding at the end the following:

7 “(F) meets the requirements of paragraph  
8 (2).”;

9 (2) by redesignating paragraph (2) as para-  
10 graph (3); and

11 (3) by inserting after paragraph (1) the fol-  
12 lowing:

13 “(2) REVENUE SOURCES.—

14 “(A) IN GENERAL.—In order to qualify as  
15 a proprietary institution of higher education  
16 under this subsection, an institution shall derive  
17 not less than 15 percent of the institution’s rev-  
18 enues from sources other than Federal funds,  
19 as calculated in accordance with subparagraphs  
20 (B) and (C).

21 “(B) FEDERAL EDUCATION ASSISTANCE  
22 FUNDS.—In this paragraph, the term ‘Federal  
23 education assistance funds’ means any Federal  
24 financial assistance provided, under this Act or  
25 any other Federal law, through a grant, con-

1           tract, subsidy, loan, guarantee, insurance, or  
2           other means to a proprietary institution, includ-  
3           ing Federal financial assistance that is dis-  
4           bursed or delivered to an institution or on be-  
5           half of a student or to a student to be used to  
6           attend the institution, except that such term  
7           shall not include any monthly housing stipend  
8           provided under the Post-9/11 Veterans Edu-  
9           cational Assistance Program under chapter 33  
10          of title 38, United States Code.

11                 “(C) IMPLEMENTATION OF NON-FEDERAL  
12           REVENUE REQUIREMENT.—In making calcula-  
13           tions under subparagraph (A), an institution of  
14           higher education shall—

15                         “(i) use the cash basis of accounting;

16                         “(ii) consider as revenue only those  
17           funds generated by the institution from—

18                                 “(I) tuition, fees, and other insti-  
19                                 tutional charges for students enrolled  
20                                 in programs eligible for assistance  
21                                 under title IV;

22                                 “(II) activities conducted by the  
23                                 institution that are necessary for the  
24                                 education and training of the institu-  
25                                 tion’s students, if such activities are—

1                   “(aa) conducted on campus  
2                   or at a facility under the control  
3                   of the institution;

4                   “(bb) performed under the  
5                   supervision of a member of the  
6                   institution’s faculty; and

7                   “(cc) required to be per-  
8                   formed by all students in a spe-  
9                   cific educational program at the  
10                  institution; and

11                  “(III) a contractual arrangement  
12                  with a Federal agency for the purpose  
13                  of providing job training to low-in-  
14                  come individuals who are in need of  
15                  such training;

16                  “(iii) presume that any Federal edu-  
17                  cation assistance funds that are disbursed  
18                  or delivered to an institution on behalf of  
19                  a student or directly to a student will be  
20                  used to pay the student’s tuition, fees, or  
21                  other institutional charges, regardless of  
22                  whether the institution credits such funds  
23                  to the student’s account or pays such  
24                  funds directly to the student, except to the  
25                  extent that the student’s tuition, fees, or

1 other institutional charges are satisfied  
2 by—

3 “(I) grant funds provided by an  
4 outside source that—

5 “(aa) has no affiliation with  
6 the institution; and

7 “(bb) shares no employees,  
8 executives, or board members  
9 with the institution; and

10 “(II) institutional scholarships  
11 described in clause (v);

12 “(iv) include no loans made by an in-  
13 stitution of higher education as revenue to  
14 the school, except for payments made by  
15 students on such loans;

16 “(v) include a scholarship provided by  
17 the institution—

18 “(I) only if the scholarship is in  
19 the form of monetary aid based upon  
20 the academic achievements or finan-  
21 cial need of students, disbursed to  
22 qualified student recipients during  
23 each fiscal year from an established  
24 restricted account; and

1           “(II) only to the extent that  
2 funds in that account represent des-  
3 ignated funds, or income earned on  
4 such funds, from an outside source  
5 that—

6                   “(aa) has no affiliation with  
7 the institution; and

8                   “(bb) shares no employees,  
9 executives, or board members  
10 with the institution; and

11           “(vi) exclude from revenues—

12                   “(I) the amount of funds the in-  
13 stitution received under part C of title  
14 IV, unless the institution used those  
15 funds to pay a student’s institutional  
16 charges;

17                   “(II) the amount of funds the in-  
18 stitution received under subpart 4 of  
19 part A of title IV;

20                   “(III) the amount of funds pro-  
21 vided by the institution as matching  
22 funds for any Federal program;

23                   “(IV) the amount of Federal edu-  
24 cation assistance funds provided to  
25 the institution to pay institutional

1 charges for a student that were re-  
2 funded or returned; and

3 “(V) the amount charged for  
4 books, supplies, and equipment, unless  
5 the institution includes that amount  
6 as tuition, fees, or other institutional  
7 charges.

8 “(D) REPORT TO CONGRESS.—Not later  
9 than July 1, 2020, and by July 1 of each suc-  
10 ceeding year, the Secretary shall submit to the  
11 authorizing committees a report that contains,  
12 for each proprietary institution of higher edu-  
13 cation that receives assistance under title IV  
14 and as provided in the audited financial state-  
15 ments submitted to the Secretary by each insti-  
16 tution pursuant to the requirements of section  
17 487(c)—

18 “(i) the amount and percentage of  
19 such institution’s revenues received from  
20 Federal education assistance funds; and

21 “(ii) the amount and percentage of  
22 such institution’s revenues received from  
23 other sources.”.

1 (b) REPEAL OF EXISTING REQUIREMENTS.—Section  
2 487 of the Higher Education Act of 1965 (20 U.S.C.  
3 1094) is amended—

4 (1) in subsection (a)—

5 (A) by striking paragraph (24);

6 (B) by redesignating paragraphs (25)  
7 through (29) as paragraphs (24) through (28),  
8 respectively;

9 (C) in paragraph (24)(A)(ii) (as redesign-  
10 dated by subparagraph (B)), by striking “sub-  
11 section (e)” and inserting “subsection (d)”; and

12 (D) in paragraph (26) (as redesignated by  
13 subparagraph (B)), by striking “subsection (h)”  
14 and inserting “subsection (g)”;

15 (2) by striking subsection (d);

16 (3) by redesignating subsections (e) through (j)  
17 as subsections (d) through (i), respectively;

18 (4) in the matter preceding paragraph (1) of  
19 subsection (d) (as redesignated by paragraph (3)),  
20 by striking “(a)(25)” and inserting “(a)(24)”;

21 (5) in subsection (f)(1) (as redesignated by  
22 paragraph (3)), by striking “subsection (e)(2)” and  
23 inserting “subsection (d)(2)”; and

24 (6) in subsection (g)(1) (as redesignated by  
25 paragraph (3)), by striking “subsection (a)(27)” in



1 the matter preceding subparagraph (A) and insert-  
2 ing “subsection (a)(26)”.

3 (c) CONFORMING AMENDMENTS.—The Higher Edu-  
4 cation Act of 1965 (20 U.S.C. 1001 et seq.) is amended—

5 (1) in section 152 (20 U.S.C. 1019a)—

6 (A) in subsection (a)(1)(A), by striking  
7 “subsections (a)(27) and (h) of section 487”  
8 and inserting “subsections (a)(26) and (g) of  
9 section 487”; and

10 (B) in subsection (b)(1)(B)(i)(I), by strik-  
11 ing “section 487(e)” and inserting “section  
12 487(d)”;

13 (2) in section 153(c)(3) (20 U.S.C.  
14 1019b(c)(3)), by striking “section 487(a)(25)” each  
15 place the term appears and inserting “section  
16 487(a)(24)”;

17 (3) in section 496(c)(3)(A) (20 U.S.C.  
18 1099b(c)(3)(A)), by striking “section 487(f)” and  
19 inserting “section 487(e)”;

20 (4) in section 498(k)(1) (20 U.S.C.  
21 1099c(k)(1)), by striking “section 487(f)” and in-  
22 serting “section 487(e)”.

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