

107TH CONGRESS  
1ST SESSION

**H. R. 1992**

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**AN ACT**

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

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## AN ACT

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

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Internet Equity and  
3 Education Act of 2001”.

4 **SEC. 2. EXCEPTION TO 50 PERCENT CORRESPONDENCE**  
5 **COURSE LIMITATIONS.**

6 (a) DEFINITION OF INSTITUTION OF HIGHER EDU-  
7 CATION FOR TITLE IV PURPOSES.—Section 102(a) of the  
8 Higher Education Act of 1965 (20 U.S.C. 1002(a)) is  
9 amended by adding at the end the following new para-  
10 graph:

11 “(7) EXCEPTION TO LIMITATION BASED ON  
12 COURSE OF STUDY.—Courses offered via tele-  
13 communications (as defined in section 484(l)(4))  
14 shall not be considered to be correspondence courses  
15 for purposes of subparagraph (A) or (B) of para-  
16 graph (3) for any institution that—

17 “(A) is participating in either or both of  
18 the loan programs under part B or D of title  
19 IV on the date of enactment of the Internet Eq-  
20 uity and Education Act of 2001;

21 “(B) has a cohort default rate (as deter-  
22 mined under section 435(m)) for each of the 3  
23 most recent fiscal years for which data are  
24 available that is less than 10 percent; and

25 “(C)(i) has notified the Secretary, in a  
26 form and manner prescribed by the Secretary

1 (including such information as the Secretary  
2 may require to meet the requirements of clause  
3 (ii)), of the election by such institution to qual-  
4 ify as an institution of higher education by  
5 means of the provisions of this paragraph; and

6 “(ii) the Secretary has not, within 90 days  
7 after such notice, and the receipt of any infor-  
8 mation required under clause (i), notified the  
9 institution that the election by such institution  
10 would pose a significant risk to Federal funds  
11 and the integrity of programs under title IV.”.

12 (b) DEFINITION OF ELIGIBLE STUDENT.—Section  
13 484(l)(1) of the Higher Education Act of 1965 (20 U.S.C.  
14 1091(l)(1)) is amended by adding at the end the following  
15 new subparagraph:

16 “(C) EXCEPTION TO 50 PERCENT LIMITA-  
17 TION.—Notwithstanding the 50 percent limita-  
18 tion in subparagraph (A), a student enrolled in  
19 a course of instruction described in such sub-  
20 paragraph shall not be considered to be enrolled  
21 in correspondence courses if the student is en-  
22 rolled in an institution that—

23 “(i) is participating in either or both  
24 of the loan programs under part B or D of  
25 title IV on the date of enactment of the

1 Internet Equity and Education Act of  
2 2001;

3 “(ii) has a cohort default rate (as de-  
4 termined under section 435(m)) for each of  
5 the 3 most recent fiscal years for which  
6 data are available that is less than 10 per-  
7 cent; and

8 “(iii)(I) has notified the Secretary, in  
9 form and manner prescribed by the Sec-  
10 retary (including such information as the  
11 Secretary may require to meet the require-  
12 ments of subclause (II)), of the election by  
13 such institution to qualify its students as  
14 eligible students by means of the provisions  
15 of this subparagraph; and

16 “(II) the Secretary has not, within 90  
17 days after such notice, and the receipt of  
18 any information required under subclause  
19 (I), notified the institution that the elec-  
20 tion by such institution would pose a sig-  
21 nificant risk to Federal funds and the in-  
22 tegrity of programs under title IV.”.

1 **SEC. 3. DEFINITION OF ACADEMIC YEAR.**

2 Section 481(a) of the Higher Education Act of 1965  
3 (20 U.S.C. 1088(a)) is amended by adding at the end the  
4 following new paragraph:

5 “(3) For the purposes of any eligible program, a week  
6 of instruction is defined as a week in which at least one  
7 day of regularly scheduled instruction or examinations oc-  
8 curs, or at least one day of study for final examinations  
9 occurs after the last scheduled day of classes. For an edu-  
10 cational program using credit hours, but not using a se-  
11 mester, trimester, or quarter system, an institution of  
12 higher education shall notify the Secretary, in the form  
13 and manner prescribed by the Secretary, if the institution  
14 plans to offer an eligible program of instruction of less  
15 than 12 hours of regularly scheduled instruction, examina-  
16 tions, or preparation for examinations for a week of in-  
17 structional time.”.

18 **SEC. 4. INCENTIVE COMPENSATION.**

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

22 **“SEC. 484C. INCENTIVE COMPENSATION PROHIBITED.**

23 “(a) PROHIBITION.—No institution of higher edu-  
24 cation participating in a program under this title shall  
25 make any payment of a commission, bonus, or other incen-  
26 tive payment, based directly on success in securing enroll-

1 ments or financial aid, to any person or entity directly en-  
2 gaged in student recruiting or admission activities, or  
3 making decisions regarding the award of student financial  
4 assistance, except that this section shall not apply to the  
5 recruitment of foreign students residing in foreign coun-  
6 tries who are not eligible to receive Federal student assist-  
7 ance.

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

11           “(1) pursuant to any contract with any third-  
12 party service provider that has no control over eligi-  
13 bility for admission or enrollment or the awarding of  
14 financial aid at the institution of higher education,  
15 provided that no employee of the third-party service  
16 provider is paid a commission, bonus, or other incen-  
17 tive payment based directly on success in securing  
18 enrollments or financial aid; or

19           “(2) to persons or entities for success in secur-  
20 ing agreements, contracts, or commitments from em-  
21 ployers to provide financial support for enrollment  
22 by their employees in an institution of higher edu-  
23 cation or for activities that may lead to such agree-  
24 ments, contracts, or commitments.

1       “(c) EXCEPTION FOR FIXED COMPENSATION.—For  
2 purposes of subsection (a), a person shall not be treated  
3 as receiving incentive compensation when such person re-  
4 ceives a fixed compensation that is paid regularly for serv-  
5 ices and that is adjusted no more frequently than every  
6 six months.”.

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

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

15 **SEC. 5. EVALUATION AND REPORT.**

16       (a) INFORMATION FROM INSTITUTIONS.—

17               (1) INSTITUTIONS COVERED BY REQUIRE-  
18       MENT.—The requirements of paragraph (2) apply to  
19       any institution of higher education that—

20                       (A) has notified the Secretary of Edu-  
21       cation of an election to qualify for the exception  
22       to limitation based on course of study in section  
23       102(a)(7) of the Higher Education Act of 1965  
24       (20 U.S.C. 1002(a)(7)) or the exception to the

1           50 percent limitation in section 484(l)(1)(C) of  
2 such Act (20 U.S.C. 1091(l)(1)(C));

3           (B) has notified the Secretary under sec-  
4 tion 481(a)(3) of such Act (20 U.S.C.  
5 1088(a)(3)); or

6           (C) contracts with outside parties for—

7                 (i) the delivery of distance education  
8 programs;

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

11                (iii) the purpose of securing the en-  
12 rollment of students.

13           (2) REQUIREMENTS.—Any institution of higher  
14 education to which this paragraph applies shall com-  
15 ply, on a timely basis, with the Secretary of Edu-  
16 cation’s reasonable requests for information on  
17 changes in—

18                 (A) the amount or method of instruction  
19 offered;

20                 (B) the types of programs or courses of-  
21 fered;

22                 (C) enrollment by type of program or  
23 course;

24                 (D) the amount and types of grant, loan,  
25 or work assistance provided under title IV of

1 the Higher Education Act of 1965 that is re-  
2 ceived by students enrolled in programs con-  
3 ducted in nontraditional formats; and

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

6 (b) REPORT BY SECRETARY REQUIRED.—The Sec-  
7 retary of Education shall conduct by grant or contract a  
8 study of, and by March 31, 2003, submit to the Congress,  
9 a report on—

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

12 (A) the ability of institutions of higher  
13 education to provide distance learning opportu-  
14 nities to students; and

15 (B) program integrity;

16 (2) with respect to distance education or cor-  
17 respondence education courses at institutions of  
18 higher education to which the information require-  
19 ments of subsection (a)(2) apply, changes from year-  
20 to-year in—

21 (A) the amount or method of instruction  
22 offered and the types of programs or courses of-  
23 fered;

1 (B) the number and type of students en-  
2 rolled in distance education or correspondence  
3 education courses;

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

7 (D) outcomes for students enrolled in dis-  
8 tance education or correspondence education  
9 courses, including graduation rates, job place-  
10 ment rates, and loan delinquencies and defaults;

11 (3) any reported and verified claim of induce-  
12 ment to participate in the student financial aid pro-  
13 grams and any violation of the Higher Education  
14 Act of 1965, including any actions taken by the De-  
15 partment of Education against the violator; and

16 (4) any further improvements that should be  
17 made to the provisions amended by this Act (and re-  
18 lated provisions), in order to accommodate nontradi-  
19 tional educational opportunities in the Federal stu-  
20 dent assistance programs while ensuring the integ-  
21 rity of those programs.

22 **SEC. 6. LEARNING ANYTIME ANYWHERE PARTNERSHIPS.**

23 Section 420J of the Higher Education Act of 1965  
24 (20 U.S.C. 1070f-6) is amended by adding at the end the  
25 following new sentence: "If for any fiscal year funds are

1 not appropriated pursuant to this section, funds available  
2 under part B of title VII, relating to the Fund for the  
3 Improvement of Postsecondary Education, may be made  
4 available for continuation grants for any grant recipient  
5 under this subpart.”.

6 **SEC. 7. IMPLEMENTATION.**

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

10 (b) IMPLEMENTING REGULATIONS.—Section 492 of  
11 the Higher Education Act of 1965 (20 U.S.C. 1098a)  
12 shall not apply to the amendments made by sections 2 and  
13 3 of this Act.

Passed the House of Representatives October 10,  
2001.

Attest:

*Clerk.*